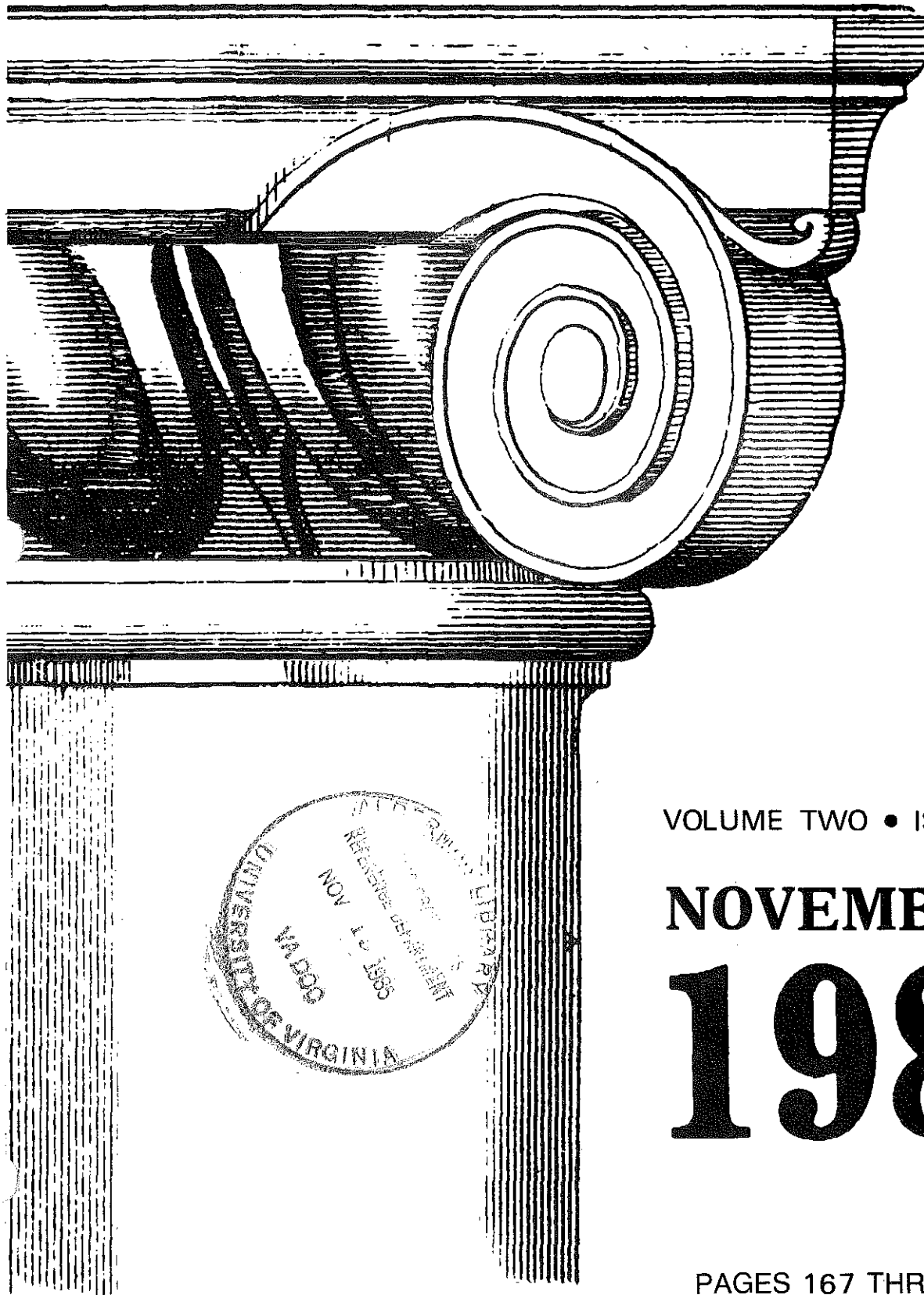


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THE VIRGINIA REGISTER

OF REGULATIONS

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NOVEMBER 11

1985

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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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 full text of all regulations, both as proposed and as finally adopted or changed by amendment 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 issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued monthly by the Department of Taxation, and notices of all 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 proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

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 *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one 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 promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and

require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-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 twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue 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 in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose 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 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The Virginia Register is cited by volume, issue, page number, and date. **1:3 VA.R. 75-77 November 12, 1984** refers to Volume 1, Issue 3, pages 75 through 77 of the Virginia Register issued on November 12, 1984.

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Members of the Virginia Code Commission: Theodore V. Morrison, Jr., Chairman, Delegate; Dudley J. Emick, Jr., Vice Chairman Senator; A. L. Philpott, Speaker of the House of Delegates; James P. Jones, Senator; Russell M. Carneal, Circuit Judge; John Wingo Knowles, Retired Circuit Judge; William G. Broadbuss, Chief Deputy Attorney General; John A. Banks, Jr., Secretary, Director of the Division of Legislative Services.

Staff of the Virginia Register: Joan W. Smith, Registrar of Regulations; Ann M. Brown, Assistant Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

PUBLICATION DATE	MATERIAL SUBMITTED BY 12 noon Wednesday
July 8	June 21
Index	
July 22	July 3
Aug. 5	July 17
Aug. 19	July 31
Sept. 2	Aug. 14
Sept. 16	Aug. 28
Sept. 30	Sept. 11
Final Index - Volume I	
Oct. 14	Sept. 25
Oct. 28	Oct. 9
Nov. 11	Oct. 23
Nov. 25	Nov. 6
Dec. 9	Nov. 20
Dec. 23	Dec. 4
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Jan. 6 1986	Dec. 18
Jan. 20	Dec. 31 (Tuesday)
Feb. 3	Jan. 15
Feb. 17	Jan. 29
Mar. 3	Feb. 12
Mar. 17	Feb. 26
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Apr. 14	Mar. 26
Apr. 28	Apr. 9
May 12	Apr. 23
May 26	May 7
June 9	May 21
June 23	June 4
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July 7	June 18
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PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

BOARD OF HEALTH

Title of Regulation: VR 355-01-3. Virginia Voluntary Formulary.

Statutory Authority: §§ 32.1-12 and 32.1-79 et seq. of the Code of Virginia.

Public Hearing Date: January 16, 1986 - 10 a.m.
(See Calendar of Events Section for additional information.)

Summary:

The purpose of the Virginia Voluntary Formulary is to provide a list of drugs of accepted therapeutic value, commonly prescribed within the Commonwealth which are available from more than one source of supply, and a list of chemically and therapeutically equivalent drug products which have been determined to be interchangeable. Utilization of the formulary by practitioners and pharmacists enables citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards.

The proposed revised Virginia Voluntary Formulary adds and deletes drugs and drug products to the formulary as it was effective on August 1, 1985. These additions and deletions are based upon recommendations of the Virginia Voluntary Formulary Council following its review of scientific data submitted by pharmaceutical manufacturers. The council makes its recommendations to the State Board of Health.

The Virginia Voluntary Formulary is needed to enable citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards. Without the formulary, physicians, dentists, and pharmacists in Virginia would not have the assurance that those generic drug products that may be substituted for brand name products have been evaluated and judged to be interchangeable with the brand name products.

VR 355-01-3. Virginia Voluntary Formulary.

Proposed Regulations

ADDITIONS TO THE VIRGINIA VOLUNTARY FORMULARY

ACETAMINOPHEN Capsules

Superpharm Corp.
(Bioline Labs., Goldline Labs) 500mg

ACETAMINOPHEN Tablets

Superpharm Corp.
(Bioline Labs., Goldline Labs.) 325mg, 500mg

ACETAMINOPHEN Elixir

National Pharmaceutical Mfg. Co.
(Geneva Generics) 120mg/5ml, 160mg/5ml

ACETAMINOPHEN with CODEINE Capsules

Lemmon Company 300mg-30mg, 300mg-60mg

A. H. Robins Co.	300mg-15mg	Phenaphen with Codeine #2
	300mg-30mg	Phenaphen with Codeine #3
	300mg-60mg	Phenaphen with Codeine #4

ACETAMINOPHEN with CODEINE Tablets

Barr Laboratories, Inc. 325mg-15mg

Lemmon Co. (Purepac Pharm.) 300mg-30mg

ALLOPURINOL Tablets

Bolar Pharmaceutical Co., Inc. 100mg, 300mg

Danbury Pharmacal, Inc.
(Lederle Labs., Purepac Pharm.,
Qualitest Labs.) 100mg, 300mg

AMINOPHYLLINE Tablets

Barr Laboratories, Inc.	100mg, 200mg
Duramed Pharmaceuticals, Inc.	100mg, 200mg
Halsey Drug Co. (Purepac Pharm.)	100mg
West-ward, Inc. (Purepac Pharm.)	200mg

AMOXICILLIN Capsules

Biocraft Laboratories, Inc. (Purepac Pharm.)	250mg, 500mg
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AMOXICILLIN Suspension

Biocraft Laboratories, Inc. (Purepac Pharm.)	125mg/5ml, 250mg/5ml
---	----------------------

AMPICILLIN TRIHYDRATE Suspension

Biocraft Laboratories, Inc. (Major Pharm.)	125mg/5ml, 250mg/5ml
---	----------------------

ASPIRIN with CAFFEINE and BUTALBITAL Tablets

Zenith Labs., Inc. (Major Pharm.)	325mg-40mg-50mg
-----------------------------------	-----------------

ASPIRIN with CODEINE Tablets

Barr Labs., Inc. (Major Pharm.)	325mg-30mg, 325mg-60mg
---------------------------------	------------------------

BACITRACIN Ointment

Altana, Inc. (Fougera, Pharmaderm)	500u/Gm
NMC Labs., Inc. (Major Pharm.)	500u/Gm

Proposed Regulations

BACITRACIN ZINC, NEOMYCIN SULFATE, POLYMYXIN B SULFATE Ophthalmic Ointment

Burroughs Wellcome, Co.	400u-3.5mg-10,000u/Gm	Neosporin
Pharmafair, Inc. (Qualitest Labs., United Research Labs.)	400u-3.5mg-10,000u/Gm	

BACITRACIN ZINC, POLYMYXIN B SULFATE Ophthalmic Ointment

Burroughs Wellcome Co.	500u-10,000u/Gm	Polysporin
Pharmafair, Inc.	500u-10,000u/Gm	

BELLADONNA ALKALOIDS with PHENOBARBITAL Tablets

Lemmon Company (Major Pharm.)	0.1296mg-15mg	
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BELLADONNA ALKALOIDS with PHENOBARBITAL Elixir

National Pharmaceutical Mfg. Co. (Geneva Generics)	0.1296mg-15mg/5ml	
---	-------------------	--

BENZTROPINE MESYLATE Tablets

Quantum Pharmaceuticals (Major Pharm., United Research Labs.)	0.5mg, 1mg, 2mg	
Par Pharmaceuticals (Lederle Labs., Qualitest Labs.)	0.5mg, 1mg, 2mg	

BETAMETHASONE DIPROPIONATE Cream

Altana, Inc. (Fougera, Pharmaderm, Savage)	0.05%	
Schering Corporation	0.05%	Diprosone

BETAMETHASONE VALERATE
Cream

Altana, Inc. (Fougera, Pharmaderm,
Savage) 0.1%

Lemmon Company (United Research
Labs.) 0.1%

NMC Labs., Inc. (Major Pharm.) 0.1%

BETAMETHASONE VALERATE
Lotion

Lemmon Company 0.1%

BETAMETHASONE VALERATE
Ointment

Altana, Inc. (Fougera, Pharmaderm,
Savage) 0.1%

NMC Labs., Inc. (Major Pharm.) 0.1%

BROMODIPHENHYDRAMINE HCl with CODEINE PHOSPHATE
Syrup

Marion Labs., Inc. 12.5mg-10mg/5ml Ambenyl

National Pharmaceutical Mfg. Co.
(Barre Drug) 12.5mg-10mg/5ml

BROMPHENIRAMINE MALEATE
Tablets

Duramed Pharmaceuticals, Inc. 4mg

BROMPHENIRAMINE MALEATE
Elixir

Naska Pharmacal Co. (Rugby Labs.) 2mg/5ml

CHLORAL HYDRATE
Capsules

Banner Gelatin Products Corp. (Geneva Generics) 500mg

Proposed Regulations

CHLORAMPHENICOL
Ophthalmic Ointment

Pharmafair, Inc. (Qualitest Labs.) 1%

CHLORDIAZEPOXIDE HCl
Capsules

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 5mg, 10mg, 25mg

CHLOROQUINE PHOSPHATE
Tablets

West-ward, Inc. (United
Research Labs.) 250mg

CHLOROTHIAZIDE with RESERPINE
Tablets

Bolar Pharmaceutical Co., Inc.
(Geneva Generics, Major Pharm.) 250mg-0.125mg

Mylan Pharmaceuticals, Inc.
(United Research Labs.) 250mg-0.125mg

West-ward, Inc. 250mg-0.125mg, 500mg-0.125mg

CHLORPHENIRAMINE MALEATE
Tablets

Duramed Pharmaceuticals, Inc. 4mg

CHLORPROPAMIDE
Tablets

Barr Laboratories, Inc. 100mg, 250mg
Bolar Pharmaceutical Co., Inc. (Major Pharm.) 100mg, 250mg
Colmed Laboratories/Pharmaceutical
Basics (United Research Labs.) 100mg, 250mg

Duramed Pharmaceuticals, Inc. 100mg, 250mg

Mylan Pharmaceuticals, Inc.
(Purepac Pharm.) 100mg, 250mg

Proposed Regulations

Par Pharmaceuticals, Inc.
(Purepac Pharm., United Research Labs.) 100mg, 250mg

Superpharm Corp. (Bioline Labs., Goldline
Labs.) 100mg, 250mg

Zenith Labs., Inc. (Major Pharm.) 100mg, 250mg

CHLORTHALIDONE Tablets

Barr Laboratories, Inc. 25mg, 50mg

CLOXACILLIN SODIUM Capsules

Biocraft Labs., Inc. (Geneva
Generics, United Research Labs.) 250mg, 500mg

CORTISONE ACETATE Tablets

Heather Labs., Inc. (Major Pharm.) 25mg

West-ward, Inc. (Purepac Pharm.) 25mg

CYCLOPENTOLATE Ophthalmic Solution

Alcon Laboratories, Inc. 1% Cyclogyl

Pharmafair, Inc. (United Research
Labs.) .1%

CYPROHEPTADINE Tablets

Camall Company 4mg

Duramed Pharmaceuticals 4mg

CYPROHEPTADINE Syrup

Naska Pharmacal Co. (Rugby Labs.) 2mg/5ml

Proposed Regulations

DEXAMETHASONE Tablets

Par Pharmaceuticals, Inc.
(Qualitest Labs.) 4mg

DEXAMETHASONE Elixir

Naska Pharmacal, Co. (Rugby Labs.) 0.5mg/5ml

DEXAMETHASONE-NEOMYCIN SULFATE-POLYMYXIN B SULFATE Ophthalmic Ointment

Alcon Laboratories, Inc. 0.1%-3.5mg (Base)-10,000u/Gm Maxitrol

Pharmafair, Inc. (Qualitest Labs.,
United Research Labs.) 0.1%-3.5mg (Base)-10,000u/Gm

DEXAMETHASONE-NEOMYCIN SULFATE-POLYMYXIN B SULFATE Ophthalmic Suspension

Alcon Laboratories, Inc. 0.1%-3.5mg (Base)-10,000u/ml Maxitrol

Pharmafair, Inc. (Qualitest Labs.,
United Research Labs.) 0.1%-3.5mg (Base)-10,000u/ml

DEXAMETHASONE SODIUM PHOSPHATE Ophthalmic Ointment

Merck, Sharp and Dohme 0.05% Decadron

Pharmafair, Inc. (Qualitest Labs.) 0.05%

DEXAMETHASONE SODIUM PHOSPHATE Ophthalmic Solution

Merck, Sharp and Dohme 0.1% Decadron

Pharmafair, Inc. (Qualitest
Labs., United Research Labs.) 0.1%

DEXAMETHASONE SODIUM PHOSPHATE with NEOMYCIN SULFATE Ophthalmic Solution

Proposed Regulations

Merck, Sharp and Dohme 0.1%-3.5mg (Base)/ml Neodecadron

Pharmafair, Inc. 0.1%-3.5mg (Base)/ml

DIAZEPAM
Tablets

Chelsea labs., Inc. (Rugby Labs.) 2mg, 5mg, 10mg

Hoffman-La Roche, Inc. 2mg, 5mg, 10mg

Valium

Par Pharmaceuticals 2mg, 5mg, 10mg

Zenith Laboratories, Inc. 2mg, 5mg, 10mg

DICLOXACILLIN SODIUM
Capsules

Biocraft Laboratories (Geneva
Generics, United Research Labs.) 250mg, 500mg

DICYCLOMINE HCl
Capsules

Bolar Pharmaceutical Co., Inc.
(Geneva Generics, Lederle Labs.) 10mg

DICYCLOMINE HCl
Tablets

Bolar Pharmaceutical Co., Inc.
(Geneva Generics, Lederle Labs.) 20mg

DIETHYLPROPION HCl
Tablets

Phoenix Labs., Inc. (Drummer Labs.) 25mg

DIMENHYDRINATE
Tablets

Amide Pharmaceutical (United
Research Labs.) 50mg

Proposed Regulations

DIPHENHYDRAMINE HCl
Elixir

Naska Pharmacal Co. (Rugby Labs.) 12.5mg/5ml

National Pharmaceutical Mfg. Co.
(Geneva Generics) 12.5mg/5ml

DIPHENHYDRAMINE HCl
Syrup

National Pharmaceutical Mfg. Co.
(Geneva Generics) 12.5mg/5ml

DIPHENHYDRAMINE HCl
Capsules

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 25mg, 50mg

DIPHENOXYLATE HCl with ATROPINE SULFATE
Tablets

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 2.5mg-0.025mg

DIPYRIDAMOLE
Tablets

Danbury Pharmacal, Inc. 50mg, 75mg

DISOPYRAMIDE PHOSPHATE
Capsules

Biocraft Labs. (Lederle Labs.,
Major Pharm., United Research Labs.) 100mg, 150mg

Danbury Pharmacal, Inc. 100mg, 150mg

DOCUSATE CALCIUM
Capsules

Hoechst-Roussel Pharmaceuticals, Inc. 240mg Surfak

Pharmacaps, Inc. (United Research
Labs.) 240mg

Proposed Regulations

	DOCUSATE SODIUM Capsules	
Mead-Johnson & Co.	50mg, 100mg	Colace
	DOCUSATE SODIUM Liquid	
Mead-Johnson & Co.	10mg/ml	Colace
Naska Pharmacal Co. (Rugby Labs.)	10mg/ml	
	DOCUSATE SODIUM Syrup	
Mead-Johnson & Co.	20mg/5ml	Colace
National Pharmaceutical Mfg. Co. (Geneva Generics)	20mg/5ml	
Newtron Pharmaceuticals, Inc. (United Research Labs.)	20mg/5ml	
	DOCUSATE SODIUM with CASANTHRANOL Capsules	
Mead-Johnson and Co.	100mg-30mg	Peri-Colace
	DOCUSATE SODIUM with CASANTHRANOL Syrup	
Mead-Johnson and Co.	60mg-30mg/15ml	Peri-Colace
National Pharmaceutical Mfg. Co. (Geneva Generics)	60mg-30mg/15ml	
	DOXYCYCLINE HYCLATE Capsules	
Barr Laboratories, Inc. (Smith, Kline and French Labs.)	50mg, 100mg	
Halsey Drug Co., Inc.	50mg, 100mg	
Mylan Pharmaceuticals, Inc. (United Research Labs.)	50mg, 100mg	
Purepac/Kalipharma, Inc.	50mg, 100mg	

Proposed Regulations

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 50mg, 100mg

West-ward, Inc. 100mg

DOXYCYCLINE HYCLATE Tablets

Danbury Pharmacal, Inc. (Purepac
Pharm.) 100mg

Lemmon Company 100mg

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 100mg

ERGOLOID MESYLATES Sublingual Tablets

Barr Laboratories, Inc. 0.5mg

ERYTHROMYCIN Ophthalmic Ointment

Altana, Inc. (Fougera, Pharmaderm) 5mg/Gm

Dista Products Company 5mg/Gm Ilotycin

Pharmafair, Inc. 5mg/Gm

ERYTHROMYCIN Topical Solution

Pharmafair, Inc. 1.5%

West-wood Pharmaceuticals, Inc. 1.5% Staticin

ERYTHROMYCIN ETHYLSUCCINATE Suspension

Barr Laboratories, Inc. (Bell Pharm.) 200mg/5ml

National Pharmaceutical Mfg. Co.
(Major Pharm.) 200mg/5ml, 400mg/5ml

Proposed Regulations

ERYTHROMYCIN ETHYLSUCCINATE Tablets

Barr Labs., Inc. (Lederle Labs.) 400mg

ERYTHROMYCIN STEARATE Tablets

Zenith Labs., Inc. (Purepac Pharm.) 500mg

FLUCINOLONE ACETONIDE Cream

Clay Park Labs., Inc. (United
Research Labs.) 0.01%, 0.025%

NMC Laboratories, Inc.
(Major Pharm.) 0.01%, 0.025%

FLUCINOLINE ACETONIDE Solution

National Pharmaceutical Mfg. Co.
(Major Pharm.) 0.01%

FOLIC ACID Tablets

Purepac/Kalipharma, Inc.
(Qualitest Labs.) 1mg

FUROSEMIDE Tablets

Barr Labs., Inc. 40mg

Cord Labs., Inc. (Geneva Generics,
Professional Services) 80mg

Hoechst-Roussel Pharmaceuticals, Inc. 80mg Lasix

Lederle Laboratories 80mg

GENTAMYCIN SULFATE Cream

Proposed Regulations

NMC Laboratories, Inc. (Major Pharm.) 0.1%

GENTAMYCIN SULFATE
Ointment

NMC Labs., Inc. (Major Pharm.) 0.1%

Pharmafair, Inc. 0.1%

GENTAMYCIN SULFATE
Ophthalmic Ointment

Pharmafair, Inc. (Qualitest Labs.) 3mg/Gm

Schering Corporation 3mg/Gm Garamycin

GENTAMYCIN SULFATE
Ophthalmic Solution

Pharmafair, Inc. (Qualitest Labs.) 3mg/ml

GRAMICIDIN with NEOMYCIN SULFATE and POLYMYXIN B SULFATE
Ophthalmic Solution

Burroughs Wellcome Co. 0.025mg-1.75mg (Base)-10,000u/ml Neosporin

Dow Pharmaceuticals 0.025mg-1.75mg (Base)-10,000u/ml Neo-Polycin

Pharmafair, Inc. (Bell Pharm.,
Qualitest Labs., United Research
Labs.) 0.025mg-1.75mg (Base)-10,000u/ml

GUANETHIDINE MONOSULFATE
Tablets

Bolar Pharmaceutical Co., Inc.
(Major Pharm., United Research Labs.) 10mg, 25mg

Ciba Pharmaceutical Company 10mg, 25mg Ismelin

HYDRALAZINE HCl
Tablets

Camall Company 10mg, 25mg, 50mg, 100mg

Proposed Regulations

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 10mg, 25mg, 50mg

HYDRALAZINE HCl with HYDROCHLOROTHIAZIDE
Capsules

Bolar Pharmaceutical Co., Inc.
(Major Pharm.) 25mg-25mg, 50mg-50mg

Par Pharmaceuticals 25mg-25mg, 50mg-50mg, 100mg-50mg

HYDRALAZINE HCl with HYDROCHLOROTHIAZIDE
Tablets

Bolar Pharmaceutical Co., Inc. 25mg-15mg
(Major Pharm.)

HYDROCHLOROTHIAZIDE
Tablets

Bolar Pharmaceutical Co., Inc.
Geneva Generics) 100mg

Phoenix Labs., Inc. (Drummer Labs.) 25mg

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 25mg, 50mg, 100mg

HYDROCHLOROTHIAZIDE with HYDRALAZINE HCl and RESERPINE
Tablets

Barr Laboratories, Inc. 15mg-25mg-0.1mg

Camall Company 15mg-25mg-0.1mg

Reid Provident Labs., Inc.
(United Research Labs.) 15mg-25mg-0.1mg

HYDROCHLOROTHIAZIDE with RESERPINE
Tablets

West-ward, Inc. 50mg-0.125mg

HYDROCORTISONE
Tablets

Proposed Regulations

Merck, Sharp and Dohme 10mg Hydrocortone

Purepac/Kalipharma, Inc. (Qualitest
Labs.) 20mg

Towne Paulsen & Co. (Geneva
Generics) 10mg

HYDROCORTISONE
Topical Cream

Pharmafair, Inc. 1%

HYDROCORTISONE
Topical Ointment

Clay Park, Inc. 2.5%

HYDROCORTISONE
Lotion

National Pharmaceutical Mfg. Co.
(Major Pharm.) 0.5%

HYDROFLUMETHIAZIDE
Tablets

Bolar Pharmaceutical Co., Inc.
(Major Pharm.) 50mg

Par Pharmaceuticals 50mg

HYDROFLUMETHIAZIDE with RESERPINE
Tablets

Bolar Pharmaceutical Co., Inc.
(Bell Pharm., Major Pharm.,
Purepac Pharm., Qualitest Labs.,
United Research Labs.) 50mg-0.125mg

Bristol Laboratories 50mg-0.125mg Salutensin

Colmed Labs./Pharmaceutical
Basics, Inc. (United Research
Labs.) 50mg-0.125mg

Proposed Regulations

HYDROXYZINE HCl Tablets

Barr Laboratories, Inc.	10mg, 50mg
Superpharm Corp. (Bioline Labs., Goldline Labs.)	10mg, 25mg, 50mg

HYDROXYZINE HCl Syrup

National Pharmaceutical Mfg. Co. (Geneva Generics, Major Pharm.)	10mg/5ml
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HYDROXYZINE PAMOATE Capsules

Barr Labs., Inc.	25mg, 50mg, 100mg
Duramed Pharmaceuticals, Inc.	25mg, 50mg, 100mg
Par Pharmaceuticals, Inc. (Lederle Labs.)	25mg, 50mg

IBUPROFEN Tablets

Barr Laboratories, Inc.	400mg, 600mg
Boots Pharmaceuticals, Inc. (United Research Labs.)	400mg, 600mg
Par Pharmaceuticals (Lederle Labs.)	400mg, 600mg

IMIPRAMINE HCl Tablets

Bolar Pharmaceutical Co., Inc. (Bell Pharm.)	10mg, 25mg, 50mg
Par Pharmaceuticals (United Research Labs.)	10mg, 25mg, 50mg

INDOMETHACIN Capsules

Proposed Regulations

Lederle Labs. 25mg, 50mg

Mylan Pharmaceuticals, Inc.
(Purepac Pharm.) 25mg, 50mg

Par Pharmaceuticals (Parmed
Pharm.) 25mg, 50mg

Zenith Labs., Inc. (Major Pharm.) 25mg, 50mg

ISONIZID Tablets

Duramed Pharmaceuticals, Inc. 100mg, 300mg

Purepac/Kalipharma, Inc.
(Qualitest Labs.) 100mg

ISOSORBIDE DINITRATE Tablets

Barr Labs., Inc. (Purepac Pharm.) 20mg, 30mg

Danbury Pharmacal, Inc. (Purepac
Pharm.) 5mg

Par Pharmaceuticals (Qualitest
Labs.) 30mg

Zenith Labs., Inc. (Purepac Pharm.) 10mg

LIDOCAINE HCl Topical Ointment

Altana, Inc. (Fougera) 5%

Astra Pharmaceutical Products, Inc. 5% Xylocaine

LIDOCAINE HCl Oral Solution

Astra Pharmaceutical Products, Inc. 2% Xylocaine Viscous

Naska Pharmacal Co. (Rugby Labs.) 2%

Proposed Regulations

LINDANE
Topical Lotion

National Pharmaceutical Mfg. Co.
(Geneva Generics, United Research
Labs., Bell Pharm.) 1%

LINDANE
Shampoo

National Pharmaceutical Mfg. Co.
(Geneva Generics, United Research
Labs., Major Pharm.) 1%

LIOTHYRONINE SODIUM
Tablets

Bolar Pharmaceutical Co., Inc.
(Geneva Generics, Major Pharm.) 25mcg, 50mcg

LORAZEPAM
Tablets

Colmed Laboratories/Pharmaceutical
Basics, Inc. 1mg, 2mg

Wyeth Laboratories 1mg, 2mg Ativan

MECLIZINE HCl
Tablets

Par Pharmaceuticals (Bell Pharm.) 12.5mg, 25mg

Zenith Labs., Inc. (Qualitest
Labs.) 25mg

MEPERIDINE HCl
Tablets

Barr Laboratories, Inc. 50mg, 100mg

METHANDROSTENOLONE
Tablets

Bolar Pharmaceutical Co., Inc.
(Major Pharm.) 5mg

Proposed Regulations

METHYCLOTHIAZIDE Tablets

Chelsea Labs., Inc. (Rugby Labs.) 5mg
Colmed Labs./Pharmaceutical Basics,
Inc. 5mg
Par Pharmaceuticals 2.5mg, 5mg

METHYCLOTHIAZIDE with DESERPIDINE Tablets

Abbott Laboratories 5mg-0.25mg Enduronyl
5mg-0.5mg Enduronyl Forte
Bolar Pharmaceutical Co., Inc.
(Major Pharm., Qualitest Labs.,
United Research Labs.) 5mg-0.25mg
5mg-0.5mg
Colmed Laboratories/Pharmaceutical
Basics, Inc. 5mg-0.25mg
5mg-0.5mg

METHYLDOPA Tablets

Chelsea Laboratories, Inc.
(Rugby Labs.) 125mg, 250mg, 500mg
Cord Labs., (Lederle Labs.,
Major Pharm., Purepac Pharm.,
United Research Labs.) 250mg, 500mg
Merck, Sharp and Dohme 125mg Aldomet
Mylan Pharmaceuticals, Inc.
(Qualitest Labs.) 250mg, 500mg

METOCLOPRAMIDE HCl Tablets

Chelsea Labs., Inc. (Rugby Labs.) 10mg
Colmed Labs./Pharmaceutical Basics,
Inc. 10mg

Proposed Regulations

A. H. Robins Company	10mg	Reglan
METRONIDAZOLE Tablets		
Barr Laboratories, Inc.	250mg, 500mg	
Halsey Drug Co., Inc.	250mg	
Superpharm Corp. (Bioline Labs., Goldline Labs.)	250mg, 500mg	
NAPHAZOLINE HCl Ophthalmic Solution		
Alcon Labs., Inc.	0.1%	Naphcon Forte
Allergan Pharmaceuticals, Inc.	0.1%	Albalon
Coopervision Pharmaceuticals, Inc.	0.1%	Vasocon
Pharmafair, Inc. (United Research Labs.)	0.1%	
NEOMYCIN SULFATE Tablets		
Biocraft Labs., Inc. (United Research Labs.)	500mg	
NEOMYCIN SULFATE with HYDROCORTISONE and POLYMYXIN B SULFATE Otic Solution		
Lemmon Company	3.5mg (Base)-1%-10,000u/ml	
Pharmafair, Inc. (Qualitest Labs.)	3.5mg (Base)-1%-10,000u/ml	
NEOMYCIN SULFATE with HYDROCORTISONE and POLYMYXIN B SULFATE Otic Suspension		
Lemmon Company	3.5mg (Base)-1%-10,000u/ml	
Pharmafair, Inc. (Qualitest Labs.)	3.5mg (Base)-1%-10,000u/ml	

Proposed Regulations

NYSTATIN Oral Tablets

Lemmon Company (Purepac Pharm.) 500,000u

NYSTATIN Suspension

Naska Pharmacal Co. (Rugby Labs.) 100,000u/ml

National Pharmaceutical Mfg. Co.
(Geneva Generics) 100,000u/ml

Pharmafair, Inc. 100,000u/ml

NYSTATIN Vaginal Tablets

Altana, Inc. (Fougera, Pharmaderm) 100,000u

Lemmon Company (Purepac Pharm.,
Major Pharm.) 100,000u

NYSTATIN Topical Cream

NMC Labs., Inc. (Major Pharm.) 100,000u/Gm

NYSTATIN Topical Ointment

Clay-Park Labs. 100,000u/Gm

OXACILLIN SODIUM Capsules

Biocraft Labs., Inc. (Geneva
Generics, Major Pharm., United
Research Labs.) 250mg, 500mg

OXACILLIN SODIUM Solution

Biocraft Labs., Inc. (Major Pharm.) 250mg/5ml

OXTRIPHYLLINE
Tablets

Bolar Pharmaceutical Co., Inc.
(Geneva Generics, Major Pharm.,
Qualitest Labs., United Research
Labs.) 100mg, 200mg

PAPAVERINE HCl
Controlled Release Capsules

Vitarine/Phoenix Pharmaceuticals
(Lederle Labs.) 150mg

PENICILLIN G POTASSIUM
Tablets

Biocraft Labs., Inc. (Purepac Pharm.) 250mu, 400mu

PENICILLIN V POTASSIUM
Tablets

Biocraft Labs., Inc. (Purepac Pharm.) 250mg

PENICILLIN V POTASSIUM
Solution

Biocraft Labs., Inc. (Purepac Pharm.) 250mg/5ml

PHENAZOPYRIDINE HCl
Tablets

Quantum Pharmics Ltd. 100mg, 200mg

PHENOBARBITAL
Tablets

Barr Laboratories 60mg

Bowman Pharmacal Corp. (United
Research Labs.) 60mg

PHENOBARBITAL
Elixir

Proposed Regulations

Naska Pharmacal Co. (Rugby Labs.) 20mg/5ml

PHENYLBUTAZONE
Capsules

Cord Labs., Inc. (Major Pharm.,
United Research Labs.) 100mg

Zenith Labs., Inc. (Qualitest
Labs.) 100mg

PHENYLBUTAZONE
Tablets

Cord Labs., Inc. (Major Pharm.) 100mg

PHENYTOIN SODIUM
EXTENDED Capsule

Bolar Pharmaceutical Co., Inc. 100mg

Parke-Davis Labs./Warner-Lambert 100mg Dilantin

PILOCARPINE
Ophthalmic Solution

Pharmafair, Inc. (Qualitest Labs.) 1%, 2%, 3%, 4%, 6%

POTASSIUM CHLORIDE
Oral Liquid, Sugar Free

National Pharmaceutical Mfg. Co.
(Geneva Generics) 10%, 20%

POTASSIUM GLUCONATE
Elixir

National Pharmaceutical Mfg. Co.
(Geneva Generics, Major Pharm.) 20mEq/15ml

PREDNISOLONE
Tablets

Superpharm Corp. (Bioline Labs., Goldline Labs.) 5mg

PREDNISON
Tablets

Duramed Pharmaceuticals, Inc. 5mg, 10mg, 20mg
Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 5mg, 10mg, 20mg

PROBENECID
Tablets

Danbury Pharmacal, Inc. (Purepac Pharm.) 500mg

PROCAINAMIDE
Capsules

Danbury Pharmacal, Inc. (Purepac Pharm.) 375mg

PROCAINAMIDE
Controlled Release Tablets

Bolar Pharmaceutical Co., Inc.
(Lederle Labs., Purepac Pharm.,
Qualitest Labs., United Research
Labs.) 250mg
Parke-Davis Labs./Warner-Lambert 250mg Procain SR

PROMETHAZINE HCl with CODEINE PHOSPHATE
Syrup

National Pharmaceutical Mfg. Co.
(Lederle Labs.) 6.25mg-10mg/5ml

PROMETHAZINE HCl with PHENYLEPHRINE HCl
Syrup

National Pharmaceutical Mfg. Co.
(Lederle Labs.) 6.25mg-5mg/5ml

PROMETHAZINE HCl with PHENYLEPHRINE HCl and CODEINE PHOSPHATE
Syrup

National Pharmaceutical Mfg. Co. 6.25mg-5mg-10mg/5ml
(Lederle Labs.)

Proposed Regulations

PROPARACAINE HCl
Ophthalmic Solution

Pharmafair, Inc. (United Research Labs.)	0.5%	
E. R. Squibb & Sons	0.5%	Ophthaine

PROPOXYPHENE HCl
Capsules

Cord Laboratories, Inc.
(United Research Labs.)

65mg

PROPOXYPHENE HCl with ASPIRIN and CAFFEINE
Capsules

Phoenix Labs., Inc. (Geneva Generics) 65mg-389mg-32.4mg

PROPOXYPHENE NAPSYLATE with ACETAMINOPHEN
Tablets

Barr Labs., Inc.

50mg-325mg
100mg-650mg

Eli Lilly & Company

50mg-325mg
100mg-650mg

Darvocet N-50
Darvocet N-100

Lemmon Company

100mg-650mg

Zenith Labs., Inc.

100mg-650mg

PROPRANOLOL HCl
Tablets

Ayerst Labs., Inc.

10mg, 20mg, 40mg 80mg

Inderal

Chelsea Labs. (Rugby Labs.)

10mg, 20mg, 40mg, 80mg

Lederle Labs.

10mg, 40mg

PSEUDOEPHEDRINE HCl
Tablets

Duramed Pharmaceuticals, Inc.

30mg, 60mg

Par Pharmaceuticals (United
Research Labs.)

60mg

Proposed Regulations

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 30mg, 60mg

PSEUDOEPHEDRINE HCl
Syrup

National Pharmaceutical Mfg. Co.
(Geneva Generics) 30mg/5ml

PSEUDOEPHEDRINE HCl with TRIPROLIDINE HCl
Tablets

Danbury Pharmacal Corp. (Major Pharm.) 60mg-1.25mg

PSEUDOEPHEDRINE HCl with TRIPROLIDINE HCl
Syrup

Naska Pharmacal Co. (Rugby Labs.) 30mg-1.25mg/5ml

National Pharmaceutical Mfg. Co.
(Geneva Generics, Major Pharm.,
United Research Labs.) 30mg-1.25mg/5ml

PSEUDOEPHEDRINE HCl with TRIPROLIDINE HCl and CODEINE PHOSPHATE
Syrup

Burroughs Wellcome Co. 30mg-1.25mg-10mg/5ml Actifed w. Codeine

National Pharmaceutical Mfg. Co.
(Barre Drug) 30mg-1.25mg-10mg/5ml

QUINIDINE SULFATE
Tablets

Lederle Laboratories 200mg

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 200mg

QUININE SULFATE
Capsules

Danbury Pharmacal, Inc. (Ball Pharm.,
Geneva Generics, Lederle Labs.) 325mg

Proposed Regulations

Halsey Drug Company 325mg

Richlyn Laboratories, Inc. 325mg

QUININE SULFATE Tablets

Bolar Pharmaceutical Co., Inc.
(Major Pharm., United Research
Labs.) 260mg

Danbury Pharmacal, Inc. 260mg

RAUWOLFIA SERPENTINA Tablets

Richlyn Labs., Inc. (Major Pharm.) 50mg, 100mg

RESERPINE Tablets

Purepac/Kalipharma, Inc. (Qualitest Labs.) 0.1%

SELENIUM SULFIDE Lotion/Shampoo

Abbott Laboratories 2.5% Selsun

National Pharmaceutical Mfg. Co.
(Bell Pharm., United Research
Labs.) 2.5%

SPIRONOLACTONE Tablets

Purepac/Kalipharma, Inc. 25mg

SULFACETAMIDE SODIUM Ophthalmic Solution

Alcon Labs., Inc. 15% Isopto Cetamide

Pharmafair, Inc. (Qualitest Labs.) 10%, 15%, 30%

SULFACETAMIDE SODIUM with PREDNISOLONE ACETATE
Ophthalmic Suspension

Pharmafair, Inc. (United Research Labs.)	10%-0.5%	
Schering Corporation	10%-0.5%	Metimyd

SULFACETAMIDE SODIUM with PREDNISOLONE ACETATE
Ophthalmic Ointment

Pharmafair, Inc. (United Research Labs.)	10%-0.5%
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SULFABENZAMIDE with SULFACETAMIDE, SULFATHIAZOLE and UREA
Vaginal Cream

Ambix Labs. (Mayrand)	3.7%-2.8%-3.42%-0.64%
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SULFAMETHOXAZOLE
Tablets

Heather Drug Co. (United Research Labs.)	500mg
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SULFINPYRAZONE
Capsules

Barr Labs., Inc. (Bell Pharm.)	200mg
Zenith Labs., Inc. (Major Pharm.)	200mg

SULFINPYRAZONE
Tablets

Zenith Labs., Inc. (Major Pharm.)	100mg
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TETRACYCLINE HCl
Syrup

National Pharmaceutical Mfg. Co. (Qualitest Labs.)	125mg/5ml
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Proposed Regulations

THEOPHYLLINE
Elixir

Naska Pharmacal Co. (Rugby Labs.) 80mg/15ml

THEOPHYLLINE with EPHEDRINE HCl and PHENOBARBITAL
Tablets

Amide Pharmaceutical (United
Research Labs.) 130mg-24mg-8mg

THEOPHYLLINE with POTASSIUM IODIDE
Elixir

Naska Pharmacal Co. (Rugby Labs.) 80mg-130mg/15ml

THIORIDAZINE HCl
Tablets

Barr Labs., Inc. 150mg, 200mg

Bolar Pharmaceutical Co., Inc. (Major
Pharm., Purepac Pharm., United
Research Labs.) 100mg, 150mg, 200mg

Danbury Pharmacal, Inc. (Bell Pharm.) 10mg, 25mg, 50mg, 150mg, 200mg

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 10mg, 25mg, 50mg

Zenith Labs., Inc. (Major Pharm.) 100mg

THIORIDAZINE HCl
Concentrate

Cord Labs., Inc. (Geneva Generics,
Professional Svs.) 30mg/ml, 100mg/ml

Sandoz Pharmaceuticals 30mg/ml, 100mg/ml Mellaril

TOLAZAMIDE
Tablets

Chelsea Labs., Inc. (Rugby Labs.) 100mg, 250mg, 500mg
Colmed Labs./Pharmaceutical Basics 250mg, 500mg
Par Pharmaceuticals (Lederle Labs.) 100mg, 250mg, 500mg
Zenith Labs., Inc. (Major Pharm.,
Purepac Pharm., United Research
Labs.) 100mg, 250mg, 500mg

TOLBUTAMIDE
Tablets

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 500mg

TRAZODONE HCl
Tablets

Chelsea Labs., Inc. (Rugby Labs.) 50mg, 100mg
Mead Johnson & Co. 50mg-100mg Desyrel

TRIAMCINOLONE ACETONIDE
Cream

Pharmafair, Inc. 0.025%, 0.1%, 0.5%

TRIFLUOPERAZINE HCl
Tablets

Duramed Pharmaceuticals, Inc. 1mg, 2mg, 5mg, 10mg

TRIMETHOPRIM with SULFAMETHOXAZOLE
Tablets

Barr Labs., Inc. 80mg-400mg, 160mg-800mg
Danbury Pharmacal, Inc. (Bell Pharm.,
Geneva Generics, Purepac Pharm.) 80mg-400mg, 160mg-800mg
Par Pharmaceuticals 80mg-400mg, 160mg-800mg

Proposed Regulations

Superpharm Corp. (Bioline Labs.,
Goldline Labs.) 160mg-800mg

TRIMETHOPRIM with SULFAMETHOXAZOLE
Suspension

National Pharmaceutical Mfg. Co.
(Bell Pharm., Geneva Generics) 40mg-200mg/5ml
40mg-200mg/5ml Pediatric

TROPICAMIDE
Ophthalmic Solution

Alcon Laboratories 0.5%, 1% Mydracyl

Pharmafair, Inc. 0.5%, 1%

VERAPAMIL HCl
Tablets

Chelsea Labs., Inc. (Rugby Labs.) 80mg, 120mg

WARFARIN SODIUM
Tablets

Colmed Labs./Pharmaceutical Basics 2mg, 2.5mg, 5mg

Dupont Pharmaceuticals, Inc. 2mg, 2.5mg, 5mg Coumadin

DELETIONS FROM 1985 VIRGINIA VOLUNTARY FORMULARY

PSEUDOEPHEDRINE HCl
Tablets

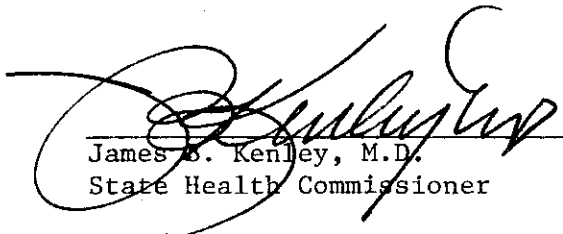
Bolar Pharmaceutical Co., Inc. 60mg
(Bioline Labs., Goldline Labs.)

TRIPLENNAMINE HCl
Tablets

Bolar Pharmaceutical Co., Inc. 50mg
(Bioline Labs., Goldline Labs.,
Major Pharm., Parmed Pharm.,
Qualitest Labs., Henry Schein,
United Research Labs.)

Date

10/22/85


James B. Kenley, M.D.
State Health Commissioner

Proposed Regulations

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VIRGINIA STATE BOARD OF MEDICINE

Title of Regulation: VR 355-34-02. Sewage Handling and Disposal Regulations.

Statutory Authority: §§ 32.1-164 B and 32.1-164.2 through 32.1-164.4 of the Code of Virginia.

Public Hearing Date: January 15, 1986 - 7 p.m.
(See Calendar of Events Section for additional information)

Title of Regulation: VR 465-07-1. Regulations Governing the Certification of Nurse Practitioners.

Statutory Authority: §§ 54-274.1 and 54-367.11 of the Code of Virginia.

Public Hearing Date: January 16, 1986 - 1 p.m.
(See Calendar of Events Section for additional information)

NOTICE

Due to its length, the proposed Sewage Handling and Disposal Regulations filed by the State Department of Health are not being published. However in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulations are available for public inspection at the office of the Registrar of Regulations and at the Department of Health.

Summary:

The Department of Health proposes to amend the Sewage Handling and Disposal Regulations by allowing additional options by which septage may be handled and disposed. The proposed amendments represent a change in format, organization, and style, as required by the Virginia Registrar of Regulations.

Current regulations require septage handlers to be permitted to handle septage. Before permits are issued, the septage handlers must demonstrate that they have an approved site for disposal of septage. Septage disposal sites currently approved include sewage treatment plants and anaerobic lagoons. There are situations where the above options are not available and the proposed amendments were developed to allow other methods by which septage may be disposed.

The preferred methods for septage disposal are in an approved sewage treatment plant or stabilization and subsequent land application or landfilling. Unstabilized septage may be applied directly to land only under certain strict conditions. The proposed amendments describe lime stabilization as a process by which septage may be handled prior to landfilling or landspreading. The land spreading of unstabilized septage via shallow injection plowing is also described in the proposed amendments.

The State Department of Health in order to implement House Bill 1385, (Ch. 391 of the 1985 Acts of Assembly): Land Disposal of Septage in Certain Counties, has proposed the amendments. The purpose of the proposed change is to protect the public health by regulating land application of septage.

Summary:

The proposed regulations state the requirements for certification of and practice by certified nurse practitioners in the Commonwealth, as well as the criteria for approval of nurse practitioner education programs; disciplinary provisions and fees for certification. Because of the number of changes involved, the Virginia State Boards of Medicine and Nursing intend to repeal the existing Regulations Governing the Certification of Nurse Practitioners adopted by them in 1980 and replace those regulations with the proposed upon their adoption by both boards. The proposed regulations are the result of the comprehensive review of the existing regulations completed in 1984 pursuant to Executive Order 52 (84).

Notice: Please refer to the Board of Nursing in the Proposed Regulation Section of this issue of the Virginia Register of Regulations for the publication of Regulations Governing the Certification of Nurse Practitioners.

VIRGINIA STATE BOARD OF NURSING

Title of Regulation: VR 495-01-1. Board of Nursing Regulations.

Statutory Authority: § 54-367.11 of the Code of Virginia.

Public Hearing Date: January 28, 1986 - 1 p.m.
(See Calendar of Events Section for additional information)

Summary:

The proposed Board of Nursing regulations state the criteria for the establishment of and continuing approval of nursing education programs; requirements for licensure; disciplinary provisions; fees for licensing registered nurses and licensed practical nurses; and public participation guidelines. Because of the number of changes involved, the Virginia State Board of Nursing intends to repeal its regulations adopted on November 10, 1981, and replace them with the proposed regulations upon their adoption. The proposed regulations are the result of the

Proposed Regulations

comprehensive review of the existing regulations completed in 1984 pursuant to Executive Order 52 (84).

VR 495-01-1. Board of Nursing Regulations.

PREAMBLE

These regulations state the requirements for nursing education programs and the licensing of registered nurses and practical nurses in the Commonwealth of Virginia. The regulations are proposed by the Virginia State Board of Nursing under the authority of Title 54, Chapter 13.1 Nurses., §§ 54-367.1 through 54-367.36 of the Code of Virginia.

The board believes that each practitioner of nursing is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of nursing.

The registered nurse shall be responsible and accountable for making decisions that are based upon educational preparation and experience in nursing. The registered nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself or others who are under his supervision.

The licensed practical nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself based upon educational preparation and experience.

PART I. GENERAL PROVISIONS.

Authority: §§ 54-367.11, 54-367.12, 54-367.27 and 54-367.29 of the Code of Virginia.

§ 1.1. Definitions.

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

"Approval", as used in these regulations, is synonymous with accreditation and means the process by which the board or a governmental agency in another state or foreign country evaluates and grants official recognition to nursing education programs that meet established standards not inconsistent with Virginia law.

"Associate degree nursing program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or other institution and designed to lead to an associate degree in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, State Council of Higher Education or an Act of the General Assembly.

"Baccalaureate degree nursing program" means a

nursing education program preparing for registered nurse licensure, offered by a Virginia college or university and designed to lead to a baccalaureate degree in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, the State Council of Higher Education or an Act of the General Assembly.

"Board" means the State Board of Nursing.

"Conditional approval" means a time-limited status which results when an approved nursing education program has failed to maintain requirements as set forth in § 2.2 of these regulations.

"Cooperating agency" means an agency or institution that enters into a written agreement to provide learning experiences for a nursing education program.

"Diploma nursing program" means a nursing education program preparing for registered nurse licensure, offered by a hospital and designed to lead to a diploma in nursing, provided the hospital is licensed in this state.

"Nursing education program" means an entity offering a basic course of study preparing persons for licensure as registered nurses or as licensed practical nurses. A basic course of study shall include all courses required for the degree or diploma.

"Practical nursing program" means a nursing education program preparing for practical nurse licensure, offered by a Virginia school, that leads to a diploma or certificate in practical nursing, provided the school is authorized by the appropriate governmental agency.

"Program director" means a registered professional nurse who has been designated by the controlling authority to administer the nursing education program.

"Provisional approval" means the initial status granted to a nursing education program which shall continue until the first class has graduated and the board has taken final action on the application for approval.

"Recommendation" means a guide to actions that will assist an institution to improve and develop its nursing education program.

"Requirement" means a mandatory condition that a nursing education program must meet to be approved.

§ 1.2. Delegation of authority.

A. The executive director of the board shall issue a certificate of registration to each person who meets the requirements for initial licensure under §§ 54-367.13, 54-367.14, 54-367.19 and 54-367.20 of the Code of Virginia. Such certificates of registration shall bear the signature of the president of the board and the executive director.

B. The executive director shall issue an annual license

Proposed Regulations

to each applicant who qualifies for such license under § 54-367.25 of the Code of Virginia. Such licenses shall bear the name of the executive director.

§ 1.3. Fees.

Fees required in connection with the licensing of applicants by the board are:

1. Application R.N. – \$40
2. Application L.P.N. – \$30
3. Reapplication R.N. – \$30
4. Reapplication L.P.N. – \$20
5. Biennial Licensure Renewal – \$20
6. Reinstatement Lapsed Licensure – \$5
7. Duplicate License – \$10
8. Verification of License – \$10
9. Transcript of Examination Scores – \$5
10. Returned Check charge – \$15

§ 1.4. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Nursing (board) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding", the subject of which is proposed or existing regulation.
3. Final regulation adopted.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all above-listed information. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

B. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by §

9-6.14.1 of the Code of Virginia, the board will publish a "notice of intent". This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. Public comment period.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceedings may be held separately or in conjunction with other informational proceedings.

D. Petitions to the board.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

E. Publication in the Virginia Register of Regulations.

At any meeting of the board or any subcommittee or advisory committee, where the formulation or adoption of regulation occurs, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

F. Advisory committee.

The board, in cooperation with the Board of Health Regulatory Boards, may appoint advisory committees as they deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

PART II. NURSING EDUCATION PROGRAMS.

Authority: §§ 54-367.11, 54-367.27, 54-367.28 and 54-367.29 of the Code of Virginia.

§ 2.1. Establishing a nursing education program.

Phase I.

A. An institution wishing to establish a nursing education program shall:

1. Submit to the board, at least 15 months in advance of expected opening date, a statement of intent to establish a nursing education program;

2. Submit to the board, along with the statement of intent, a feasibility study to include the following information:

- a. Studies documenting the need for the program;
- b. Purpose and type of program;
- c. Availability of qualified faculty;
- d. Budgeted faculty positions;
- e. Availability of clinical facilities for the program;
- f. Availability of academic facilities for the program;
- g. Evidence of financial resources for the planning, implementation and continuation of the program;
- h. Anticipated student population; and
- i. Tentative time schedule for planning and initiating the program.

3. Respond to the board's request for additional information.

B. The board, after review and consideration, shall either approve or disapprove Phase I.

1. If Phase I is approved, the institution may apply for provisional approval of the nursing education program as set forth in these regulations.

2. If Phase I is disapproved, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

Phase II.

C. The application for provisional approval shall be complete when the following conditions are met:

1. A program director has been appointed and there are sufficient faculty to initiate the program (§ 2.2.C. of these regulations);
2. A tentative written curriculum plan developed in accordance with § 2.2.F. of these regulations has been submitted; and
3. A site visit has been conducted by a representative of the board.

D. The board, after review and consideration, shall either grant or deny provisional approval.

1. If provisional approval is granted, the program director shall submit bi-monthly progress reports to the board which shall include information as required

by the board.

2. If provisional approval is denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

E. Following graduation of the first class, the institution shall apply for approval of the nursing education program.

Phase III.

F. The application for approval shall be complete when a self-evaluation report of compliance with § 2.2 of these regulations has been submitted and a survey visit has been made by a representative of the board.

G. The board will review and consider the self-evaluation and the survey report at the next regularly scheduled meeting.

H. The board shall either grant or deny approval. If denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

§ 2.2. Requirements for approval.

A. Organization and administration.

1. The institution shall be authorized to conduct a nursing education program by charter or articles of incorporation of the controlling institution; by resolution of its board of control; or by the institution's own charter or articles of incorporation.

2. Universities, colleges, community or junior colleges, proprietary schools and public schools offering nursing education programs shall be accredited by the appropriate state agencies and the Southern Association of Colleges and Schools.

3. Hospitals conducting a nursing education program shall be accredited by the Joint Commission on Accreditation of Hospitals.

4. Any agency or institution that is utilized by a nursing education program shall be one that is authorized to conduct business in the Commonwealth of Virginia, or in the state in which the agency or institution is located.

5. The authority and responsibility for the operation of the nursing education program shall be vested in a program director who is duly licensed to practice professional nursing in Virginia and who is responsible to the controlling board, either directly or through appropriate administrative channels.

6. A written organizational plan shall indicate the lines of authority and communication of the nursing

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education program to the controlling body; to other departments within the controlling institution; to the cooperating agencies; and to the advisory committee, if one exists.

7. Funds shall be allocated by the controlling agency to carry out the stated purposes of the program. The program director of the nursing education program shall be responsible for the budget recommendations and administration, consistent with the established policies of the controlling agency.

B. Philosophy and objectives.

A clearly written statement of philosophy and objective shall be:

1. Formulated and accepted by the faculty;
2. Directed toward achieving realistic goals;
3. Directed toward the meaning of education, nursing and the learning process;
4. Descriptive of the practitioner to be prepared; and
5. The basis for planning, implementing and evaluating the total program.

C. Faculty.

1. Qualifications.

a. Every member of a nursing faculty, including the program director, shall hold a current license to practice as a registered nurse in Virginia.

b. Every member of a faculty responsible for teaching students in a cooperating agency located outside the jurisdictional limits of Virginia should hold a current license to practice nursing in that jurisdiction as well.

c. The program director and each member of the nursing faculty shall maintain professional competence through such activities as nursing practice, continuing education programs, conferences, workshops, seminars, academic courses, research projects and professional writing.

d. For baccalaureate degree programs:

(1) The program director shall hold a master's degree with a major in nursing and a doctoral degree.

(2) Every member of the nursing faculty shall hold a master's degree with a major in nursing.

(3) At least one faculty member in each clinical area shall have master's preparation in that clinical

specialty.

e. For associate degree and diploma programs:

(1) The program director shall hold a master's degree with a major in nursing.

(2) Every member of the nursing faculty shall hold a master's degree, the majority of which shall be in nursing.

(3) At least one faculty member in each clinical area shall have master's preparation in that clinical specialty.

f. For practical nursing programs.

(1) The program director shall hold a baccalaureate degree with a major in nursing.

(2) The majority of the nursing faculty shall hold baccalaureate degrees in nursing.

g. Exceptions to provisions of subparagraphs d., e. and f. of this subsection shall be by board approval. Any exception made to these provisions will be based on the nursing faculty member's progress towards meeting the requirements of the regulations during each year for which the exception is requested. A maximum of five yearly exceptions may be granted to one individual.

2. Number.

a. The number of faculty shall be sufficient to prepare the students to achieve the objectives of the educational program and such number shall be reasonably proportionate to:

(1) Number of students enrolled;

(2) Frequency of admissions;

(3) Education and experience of faculty members;

(4) Number and location of clinical facilities; and

(5) Total responsibilities of the faculty.

b. The maximum ratio of students to faculty in clinical areas involving direct care of patients shall be 10 students to one faculty member.

3. Conditions of employment.

a. Qualifications and responsibilities for faculty positions shall be defined in writing.

b. Faculty assignments shall allow time for class and laboratory preparation; teaching; program revision; improvement of teaching methods; academic

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advisement and counseling of students; participation in faculty organizations and committees; attendance at professional meetings; and participation in continuing education activities.

4. Functions.

The principal functions of the faculty shall be to:

- a. Develop, implement and evaluate the philosophy and objectives of the nursing education program;
- b. Participate in designing, implementing, teaching, and evaluating and revising the curriculum;
- c. Develop and evaluate student admission, progression, retention and graduation policies within the framework of the controlling institution;
- d. Participate in academic advisement and counseling of students; and
- e. Provide opportunities for student evaluation of teaching and program effectiveness.

5. Organization.

- a. The nursing faculty shall hold regular meetings for the purpose of developing, implementing and evaluating the nursing education program. Written rules shall govern the conduct of meetings.
- b. All members of the faculty shall participate in the regular faculty meetings.
- c. Committees shall be established to implement the functions of the faculty.
- d. Minutes of faculty and committee meetings, including actions taken, shall be recorded and available for reference.
- e. There shall be provision for student participation.

D. Students.

1. Admission, promotion and graduation.

a. Requirements for admission to the nursing education program shall not be less than the statutory requirements that will permit the graduate to be admitted to the appropriate licensing examination.

(EXPLANATORY NOTE: Reference § 54-367.13 (a) (2), of the Code of Virginia: The equivalent of a four-year high school course of study is considered to be:

- (1) A general educational development (GED) certificate for high school equivalence; or

(2) Satisfactory completion of the college courses required by the nursing education program.)

b. Students shall be selected on the basis of established criteria and without regard to age, race, creed, sex or national origin.

c. Requirements for admission, readmission, advanced standing, progression, retention, dismissal and graduation shall be available to the students in written form.

E. Records.

1. School records.

A system of records shall be maintained and be made available to the board representative and shall include:

- a. Data relating to accreditation by any agency or body,
- b. Course outlines,
- c. Minutes of faculty and committee meetings,
- d. Reports of standardized tests,
- e. Survey reports.

2. Student Records.

a. A file shall be maintained for each student. Each file shall be available to the board representative and shall include:

- (1) The student's application,
- (2) High school transcript or copy of high school equivalence certificate,
- (3) Current record of achievement.

b. A final transcript shall be retained in the permanent file of the institution.

c. Provision shall be made for the protection of student and graduate records against loss, destruction and unauthorized use.

3. School bulletin or catalogue.

Current information about the nursing education program shall be published periodically and distributed to students, applicants for admission and the board. Such information shall include:

- a. Description of the program.
- b. Philosophy and objectives of the controlling institution and of the nursing program.

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c. Admission and graduation requirements.

d. Fees.

e. Expenses.

f. Financial aid.

g. Tuition refund policy.

h. Education facilities.

i. Living accommodations.

j. Student activities and services.

k. Curriculum plan.

l. Course descriptions.

m. Faculty-staff roster.

n. School calendar.

F. Curriculum.

1. Curriculum shall reflect the philosophy and objectives of the nursing education program, and shall be consistent with the law governing the practice of nursing.

2. The ratio between nursing and non-nursing credit shall be based on a rationale to ensure sufficient preparation for the safe and effective practice of nursing.

3. Learning experiences shall be selected to fulfill curriculum objectives.

4. Curriculum shall be evaluated by the faculty with provisions for student participation.

5. Nursing education programs preparing for practical nursing licensure shall include:

a. Principles and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;

b. Basic concepts of anatomy, physiology, chemistry, physics and microbiology;

c. Basic concepts of communication, growth and development, interpersonal relations, patient education and cultural diversity;

d. Ethics, nursing history and trends, vocational and legal aspects of nursing;

e. Basic concepts of pharmacology, nutrition and

diet therapy; and

f. Basic concepts of the nursing process.

6. Nursing education programs preparing for registered nurse licensure shall include:

a. Theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;

b. Concepts of anatomy, physiology, chemistry, microbiology and physics;

c. Sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, cultural diversity and humanities;

d. Concepts of pharmacology, nutrition and diet therapy, and pathophysiology;

e. Concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing;

f. Concepts of leadership, management and patient education; and

g. concepts of the nursing process.

G. Resources, facilities and services.

1. Periodic evaluations of resources, facilities and services shall be conducted by the administration, faculty and students.

2. Secretarial and other support services shall be provided.

3. Classrooms, conference rooms, laboratories and offices shall be available to meet the objectives of the nursing education program and the needs of the students, faculty, administration and staff.

4. The library shall have holdings that are current, pertinent and accessible to students and faculty, and sufficient in number to meet the needs of the students and faculty.

5. Written agreements with cooperating agencies shall be developed, maintained and periodically reviewed. The agreement shall:

a. Ensure full control of student education by the faculty of the nursing education program, including the selection and supervision of learning experiences.

b. Provide that an instructor shall be present on the clinical unit(s) to which students are assigned for direct patient care.

c. Provide for cooperative planning with designated agency personnel.

6. Any observational experiences shall be planned in cooperation with the agency involved to meet stated course objectives.

7. Cooperating agencies shall be approved by the appropriate accreditation, evaluation or licensing bodies, if such exist.

H. Program changes requiring board of nursing approval.

The following proposed changes require board approval prior to their implementation:

1. Proposed changes in the nursing education program's philosophy and objectives that result in program revision.

2. Proposed changes in the curriculum that result in alteration of the length of the nursing education program.

3. Proposed additions, deletions or major revisions of courses.

I. Procedure for approval of program change.

1. When a program change is contemplated, the program director shall inform the board or board representative.

2. When a program change is requested, a plan shall be submitted to the board including:

a. Proposed change,

b. Rationale for the change,

c. Relationship of the proposed change to the present program.

3. Eleven copies of these materials shall be submitted to the board at least three weeks prior to the board meeting at which the request will be considered.

§ 2.3. Procedure for maintaining approval.

A. The program director of each nursing education program shall submit an annual report to the board.

B. Each nursing education program shall be reevaluated at least every eight years and shall require:

1. A comprehensive self-evaluation report based on § 2.2 of these regulations, and

2. A survey visit by a representative(s) of the board on date mutually acceptable to the institution and the

board.

C. The self-evaluation and survey visit reports shall be presented to the board for consideration and action at a regularly scheduled board meeting. The reports and the action taken by the board shall be sent to the appropriate administrative officers of the institution. In addition, a copy shall be forwarded to the executive officer of the state agency or agencies having program approval authority or coordinating responsibilities for the governing institutions.

D. Interim visits shall be made to the institution by board representatives at any time within the eight-year period either by request or as deemed necessary by the board.

E. A nursing education program shall continue to be approved provided the requirements set forth in § 2.2 of these regulations are attained and maintained.

F. If the board determines that a nursing education program is not maintaining the requirements of § 2.2 of these regulations, the program shall be placed on conditional approval and the governing institution shall be given a reasonable period of time to correct the identified deficiencies. The institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

G. If the governing institution fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.) Sections 2.4. B. and C. of these regulations shall apply to any nursing education program whose approval has been withdrawn.

§ 2.4. Closing of an approved nursing education program.

A. Voluntary closing.

When the governing institution considers the closing of a nursing education program, it shall notify the board in writing, stating the reason, plan and date of intended closing. The governing institution shall choose one of the following closing procedures:

1. The program shall continue until the last class enrolled is graduated.

a. The program shall continue to meet the standards for approval until all of the enrolled students have graduated.

b. The date of closure is the date on the degree, diploma or certificate of the last graduate.

c. The governing institution shall notify the board of the closing date.

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2. The program shall close after the governing institution has assisted in the transfer of students to other approved programs.

a. The program shall continue to meet the standards required for approval until all students are transferred.

b. A list of the names of students who have been transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

c. The date on which the last student was transferred shall be the closing date of the program.

B. Closing as a result of denial or withdrawal or approval.

When the board denies or withdraws approval of a program, the governing institution shall comply with the following procedures:

1. The program shall close after the institution has made a reasonable effort to assist in the transfer of students to other approved programs. A time frame for the transfer process shall be established by the board.

2. A list of the names of students who have transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

3. The date on which the last student was transferred shall be the closing date of the program.

C. Custody of records.

Provision shall be made for custody of records as follows:

1. If the governing institution continues to function, it shall assume responsibility for the records of the students and the graduates. The institution shall inform the board of the arrangements made to safeguard the records.

2. If the governing institution ceases to exist, the academic transcript of each student and graduate shall be transferred by the institution to the board for safekeeping.

PART III. LICENSURE.

Authority: §§ 54-367.11, 54-367.13, 54-367.14, 57-367.19, 54-367.20, 54-367.25, 54-367.35 and 54-367.36 of the Code of Virginia.

§ 3.1. Licensure by examination.

A. The licensing examinations of the National Council of State Boards of Nursing constitute the board examinations for registered nurse licensure and practical nurse licensure.

B. The minimum passing score on the examination for registered nurse licensure shall be the scaled score of 1600.

C. The minimum passing score on the examination for practical nurse licensure shall be the scaled score of 350.

D. The board shall administer examinations for registered nurse licensure and examinations for practical nurse licensure no less than twice each year on the dates established for all jurisdictions by the National Council of State Boards of Nursing.

E. If a candidate does not take the examination when scheduled, the application shall be retained on file as required for audit.

F. Any applicant suspected of giving or receiving unauthorized assistance during the writing of the examination shall be noticed for a hearing before the board to determine whether the license shall be issued.

G. The board shall not release examination scores to any individual or agency without written authorization from the applicant or licensee.

H. An applicant for the licensing examination shall:

1. File the required application and fee no less than 60 days prior to the scheduled date of the examination.

2. Arrange for the board to receive the final certified transcript from the nursing education program at least 15 days prior to the examination date.

I. Practice of nursing pending receipt of examination results.

1. Graduates of approved nursing education programs may practice nursing in Virginia pending the results of the first National Council Licensing Examination given by a board of nursing following their graduation, provided they have filed an application for licensure in Virginia. Candidates taking the examination in Virginia shall file the application for licensure by examination. Candidates taking the examination in other jurisdictions shall file the application for licensure by endorsement.

2. Candidates who practice nursing as provided in § 3.1. I. 1 of these regulations shall use the designation "R.N. Applicant" or "L.P.N. Applicant" when signing official records.

3. The designations "R.N. Applicant" and "L.P.N.

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Applicant" shall not be used by applicants who do not take or who have failed the first examination for which they are eligible.

J. Applicants who fail the examination.

1. An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Virginia.

2. An applicant for reexamination shall file the required application and fee no less than 60 days prior to the scheduled date of the examination.

3. Applicants who have failed the licensing examination in another U.S. jurisdiction and who meet the qualifications for licensure in this jurisdiction may apply for licensure by examination in Virginia. Such applicants shall submit the required application and fee. Such applicants shall not, however, be permitted to practice nursing in Virginia until the requisite license has been issued.

§ 3.2. Licensure by endorsement.

A. A graduate of an approved nursing education program who has been licensed by examination in another U.S. jurisdiction and whose license is in good standing shall be eligible for licensure by endorsement in Virginia, provided the qualifications for licensure were equivalent to those in effect in Virginia at the time the applicant was initially licensed.

B. An applicant for licensure by endorsement shall submit the required application and fee and submit the required form to the appropriate credentialing agency in the state of original licensure for verification of licensure. Applicants will be notified by the board after 30 days, if the completed verification form has not been received.

C. If the application is not completed within one year of the initial filing date, the application shall be retained on file by the board as required for audit.

§ 3.3. Licensure of applicants from other countries.

A. Applicants whose basic nursing education was received in, and who are duly licensed under the laws of another country, shall be scheduled to take the licensing examination provided they meet the statutory qualifications for licensure. Verification of qualification shall be based on documents submitted as required in § 3.3.B. and C. of these regulations.

B. Such applicants for registered nurse licensure shall:

1. Submit evidence of a passing score on the Commission on Graduates of Foreign Nursing Schools Qualifying Examination; and

2. Submit the required application and fee for

licensure by examination.

C. Such applicants for practical nurse licensure shall:

1. Request a transcript from the nursing education program to be submitted directly to the board office;

2. Provide evidence of secondary education to meet the statutory requirements;

3. Request that the credentialing agency, in the country where licensed, submit the verification of licensure form directly to the board office; and

4. Submit the required application and fee for licensure by examination.

§ 3.4. Renewal of licenses.

A. Licensees born in even-numbered years shall renew their licenses by the last day of the birth month in even-numbered years. Licensees born in odd-numbered years shall renew their licenses by the last day of the birth month in odd-numbered years.

B. No less than 30 days prior to the last day of the licensee's birth month, an application for renewal of licensure shall be mailed by the board to the last known address of each licensee, who is currently licensed.

C. The licensee shall complete the application and return it with the required fee.

D. Failure to receive the application for renewal shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

E. The license shall automatically lapse if the licensee fails to renew by the last day of the birth month.

F. Any person practicing nursing during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54-367.35 of the Code of Virginia.

§ 3.5. Reinstatement of lapsed licenses.

A. A nurse whose license has lapsed shall file a reinstatement application and pay the current renewal fee and the reinstatement fee.

B. The board may request evidence that the nurse is prepared to resume practice in a competent manner.

§ 3.6. Replacement of lost license.

A. The licensee shall report in writing the loss of the original certificate of registration or the current license.

B. A duplicate license for the current renewal period shall be issued by the board upon receipt of the required

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form and fee.

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§ 3.7. Evidence of change of name.

A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.

PART IV. DISCIPLINARY PROVISIONS.

Authority: §§ 54-367.11, 54-367.32, 54-367.35 of the Code of Virginia.

§ 4.1. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee upon proof that the licensee has violated any of the provisions of § 54-367.32 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

A. Fraud or deceit shall mean, but shall not be limited to:

1. Filing false credentials;
2. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or
3. Giving or receiving assistance in writing the licensing examination.

B. Unprofessional conduct shall mean, but shall not be limited to:

1. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 13.1, or as provided by Chapter 12, § 54-274, of the Code of Virginia;
2. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;
3. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
4. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;
5. Falsifying or otherwise altering patient or employer records; or
6. Abusing, neglecting or abandoning patients or clients.

Title of Regulation: VR 495-02-1. Regulations Governing the Certification of Nurse Practitioners.

Statutory Authority: §§ 54-274.1 and 54-367.11 of the Code of Virginia.

Public Hearing Date: January 16, 1986 - 1 p.m.
(See Calendar of Events Section for additional information)

Summary:

The proposed regulations state the requirements for certification of and practice by certified nurse practitioners in the Commonwealth, as well as the criteria for approval of nurse practitioner education programs; disciplinary provisions and fees for certification. Because of the number of changes involved, the Virginia State Boards of Medicine and Nursing intend to repeal the existing Regulations Governing the Certification of Nurse Practitioners adopted by them in 1980, and replace those regulations with the proposed upon their adoption by both boards. The proposed regulations are the result of the comprehensive review of the existing regulations completed in 1984 pursuant to Executive Order 52 (84).

VR 495-02-1. Regulations Governing the Certification of Nurse Practitioners.

PREAMBLE

Authority granted under these regulations may be expanded or restricted, or totally revoked, if either of the boards is of the opinion that the public health, safety or welfare is not being served or protected by the regulations. It should be clearly understood by each applicant and the recipient of certification as a nurse practitioner that the conditions state herein are a part of such certification.

All provisions of these regulations are to be narrowly construed. Nothing herein is to be deemed to limit or prohibit a nurse from engaging in those activities which normally constitute the practice of nursing or those which may be performed by persons without the necessity of a license from the State Board of Medicine.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Accredited program" means a nurse practitioner

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education program accredited by the American Association of Nurse Anesthetists, American College of Nurse Midwives, American Nurses' Association or National League for Nursing.

"Approved program" means a nurse practitioner education program that meets the criteria set forth in these regulations.

"Boards" means the Virginia State Board of Medicine and the Virginia State Board of Nursing.

"Certified nurse practitioner" means a registered nurse who has met the requirements for certification as stated in Part II of these regulations and has been certified by the boards.

"Committee" means the committee of the Joint Boards of Medicine and Nursing.

"Controlling institution" means the college or university offering a nurse practitioner education program.

"Licensed physician" means a person licensed by the Board of Medicine to practice medicine or osteopathy.

"National certifying body" means a national organization that has as one of its purposes the certification of nurse anesthetists, nurse midwives or nurse practitioners, referred to in these regulations as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Preceptor" means a physician or a certified nurse practitioner who supervises and evaluates the nurse practitioner student.

"Protocol" means a written statement, jointly developed by the physician(s) and the nurse practitioner(s) participating in an arrangement for treatment of clients, that delineates and directs the procedures to be followed and the delegated medical acts appropriate to the specialty practice area to be performed by the nurse practitioner(s) in the care and management of clients.

"Supervision" means the physician being readily available for consultation by the certified nurse practitioner and/or the client, with the physician maintaining ultimate responsibility for the specific course of medical treatment.

§ 1.2. Delegation of authority.

A. The boards hereby delegate to the executive director of the Virginia State Board of Nursing the authority to issue the initial certification and the biennial renewal of such certification to those persons who meet the requirements set forth in these regulations. Questions of eligibility shall be referred to the Committee of the Joint Board of Medicine and Nursing.

B. All records and files related to the certification of nurse practitioners shall be maintained in the office of the Virginia State Board of Nursing.

§ 1.3. Committee of the Joint Boards of Medicine and Nursing.

The presidents of the Boards of Medicine and Nursing respectively shall each appoint three members from their boards to the Committee of the Joint Boards of Medicine and Nursing. The purpose of this committee shall be to administer the Regulations Governing the Certification of Nurse Practitioners.

§ 1.4. Advisory Committee on the Certification of Nurse Practitioners.

The Committee of the Joint Boards of Medicine and Nursing, in its discretion, may appoint an advisory committee on the certification of nurse practitioners. Such an advisory committee shall be composed of four licensed physicians and four certified nurse practitioners, of whom one shall be a nurse midwife practitioner, one shall be a nurse anesthetist practitioner and two shall be nurse practitioners from other categories.

§ 1.5. Fees.

A. Fees required in connection with the certification of nurse practitioners are:

1. Application	\$25
2. Biennial Certification Renewal	\$20
3. Reinstatement of Certification	\$25
4. Verification of Certification to another Jurisdiction	\$25
5. Duplicate Certificate	\$10
6. Return check charge	\$15

PART II. CERTIFICATION.

§ 2.1. Certification, general.

A. No person shall perform services as a nurse practitioner in the Commonwealth of Virginia except as prescribed in these regulations and when certified by the Joint Boards of Medicine and Nursing.

B. The boards shall certify applicants who meet the qualifications for certification as set forth in § 2.3 of these regulations.

§ 2.2. Categories of certified nurse practitioners.

A. The boards shall certify nurse practitioners in the

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following categories.

1. Adult nurse practitioner.
2. Family nurse practitioner.
3. Pediatric nurse practitioner.
4. Family planning nurse practitioner.
5. Obstetric/gynecologic nurse practitioner.
6. Emergency room nurse practitioner.
7. Geriatric nurse practitioner.
8. Certified nurse anesthetist practitioner.
9. Certified nurse midwife practitioner.
10. School nurse practitioner.
11. Medical nurse practitioner.
12. Maternal child health practitioner.
13. Neonatology nurse practitioner.
14. Women's health care practitioner.

B. Other categories of nurse practitioners shall be certified if the Committee of the Joint Boards of Medicine and Nursing determines that the category meets the requirements of these regulations.

§ 2.3. Qualifications for initial certification.

A. An applicant for initial certification as a nurse practitioner shall:

1. Be currently licensed as a registered nurse in Virginia; and
2. Submit evidence of completion of an educational program designed to prepare nurse anesthetists, nurse midwives or nurse practitioners that is either:
 - a. Approved by the boards as provided in §§ 4.1 through 4.4 of these regulations; or
 - b. Accredited by an agency identified in § 1.1 Definitions, "Accredited Program"; and
3. Submit evidence of certification by an agency identified in § 2.4 of these regulations as an agency accepted by the boards; and
4. File the required applications; and
5. Pay the application fee prescribed in § 1.5 of these regulations.

§ 2.4. Certifying agencies.

A. The boards shall accept the certification by examination of the following:

1. American College of Nurse Midwives for nurse midwife practitioners;
2. American Nurses' Association for nurse practitioners;
3. Council on Certification/Recertification of Nurse Anesthetists for nurse anesthetist practitioners;
4. National Board of Pediatric Practitioners and Associates for nurse practitioners; and
5. Nurses' Association of the American College of Obstetricians and Gynecologists Certification Corporation for nurse practitioners.

§ 2.5. Renewal of certification.

A. Certification as a nurse practitioner shall be renewed biennially at the same time the license to practice as a registered nurse in Virginia is renewed.

B. The application for renewal of the certification shall be mailed by the committee to the last known address of each nurse practitioner.

C. The nurse practitioner shall complete the application and return it with the certification renewal fee prescribed in § 1.5 of these regulations.

§ 2.6. Reinstatement of certification.

A. Reinstatement of lapsed certificate.

1. An applicant for reinstatement of a lapsed certificate shall:
 - a. File the required application and fee;
 - b. Be currently licensed as a registered nurse in Virginia; and
 - c. Provide evidence of current professional certification or, if applicable, licensure or certification in another jurisdiction.

B. Reinstatement of certificate following suspension or revocation.

1. An applicant for reinstatement of a certificate following suspension or revocation of a certificate shall:
 - a. Petition for a hearing pursuant to the Administrative Process Act, § 9-6.14:12 of the Code of Virginia, before a committee of the boards; and

b. Present evidence that he is currently licensed to practice nursing in Virginia; and

c. Present evidence that he is competent to resume practice as a certified nurse practitioner in Virginia.

PART III.

PRACTICE OF CERTIFIED NURSE PRACTITIONERS.

§ 3.1. A certified nurse practitioner shall be authorized to engage in practices constituting the practice of medicine under the supervision and direction of a licensed physician.

§ 3.2. The practice of certified nurse practitioners shall be based on specialty education preparation as outlined in Part IV of these regulations and in accordance with written protocols as defined in § 1.1 of these regulations.

§ 3.3. A certified nurse anesthetist practitioner shall practice in accordance with the functions and standards defined by the American Association of Nurse Anesthetists.

§ 3.4. A certified nurse midwife practitioner shall practice in accordance with the functions and standards defined by the American College of Nurse Midwives.

§ 3.5. Practice as a certified nurse practitioner.

A. Practice as a certified nurse practitioner shall be prohibited if:

1. The certificate is lapsed; or
2. The certificate is revoked or suspended.

PART IV.

CRITERIA FOR APPROVAL OF NURSE PRACTITIONER EDUCATION PROGRAM.

§ 4.1. Criteria for program approval.

A. Administration.

1. The nurse practitioner education program shall be offered either:

a. Jointly by a nationally accredited school of medicine and a nationally accredited school of nursing that offers a master's degree in nursing; or

b. By a nationally accredited school of nursing that offers a master's degree in nursing.

2. The authority and responsibility for the conduct of the program shall be vested in a nurse educator or coadministered by a physician and a nurse educator who hold faculty appointments at the controlling institution.

3. The controlling institution shall provide each student

who successfully completes the program a certificate of completion or equivalent official document.

B. Philosophy and objectives.

There shall be a clearly written statement of philosophy and objectives of the program that shall include a description of the category of nurse practitioner being prepared.

C. Faculty.

1. Nurse faculty shall include nurse practitioners each currently certified in the area of specialization in which he is teaching.

2. Medical faculty shall include currently licensed physicians each having preparation in his specialty area.

D. Curriculum.

1. The program shall be at least one academic year in length including planned clinical practice under the direction of a preceptor.

2. Course descriptions and objectives shall be available in writing.

3. The curriculum shall provide:

a. Instruction in the biological, behavioral and medical sciences relevant to practice as a nurse practitioner in the specialized field;

b. Instruction in legal, ethical and professional responsibilities of a nurse practitioner; and

c. Supervised clinical practice of those skills essential for a nurse practitioner in the specialized field.

4. Major curriculum changes shall be approved by the boards.

§ 4.2. Continued approval of programs.

Each program shall be subject to periodic review by the boards to determine whether standards for approval are being maintained.

§ 4.3. Withdrawal of approval.

A. If the boards determine that an approved program is not maintaining the standards set forth in these regulations, the controlling institution shall be given a reasonable period of time to correct the identified deficiencies.

B. If the controlling institution fails to correct the identified program deficiencies within the time specified,

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the boards shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act.

§ 4.4. Exemptions from program approval requirements.

Programs accredited by any agency listed in the definition of accredited program in § 1.1 of these regulations are exempt from the program approval requirements of these regulations.

PART V. DISCIPLINARY PROVISIONS.

§ 5.1. Grounds for disciplinary action against the certificate of a certified nurse practitioner.

A. The boards may deny certification or recertification, revoke or suspend certification, or place on probation, censure or reprimand a nurse practitioner upon proof that the certificate holder:

1. Has had his license to practice nursing revoked or suspended or has been otherwise disciplined;
2. Has directly or indirectly held himself out or represented himself to the public that he is a physician, or is able to, or will practice independently of a physician;
3. Has exceeded his authority as a certified nurse practitioner;
4. Has violated or cooperated in the violation of the laws or regulations governing the practice of medicine, nursing or nurse practitioners;
5. Has become unable to practice with reasonable skill and safety to patients as the result of physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals or any other type of material; or
6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the possession, use, dispensing, administration or distribution of drugs.

§ 5.2. Hearings.

A. The provisions of the Administrative Process Act shall govern proceedings on questions of violation of § 5.1 of these regulations.

B. The Committee of the Joint Boards of Medicine and Nursing shall conduct all hearings prescribed herein and shall take action on behalf of the boards.

C. When a persons' license to practice nursing has been suspended or revoked by the Board of Nursing, the nurse practitioner certificate shall be suspended pending a hearing simultaneously with the institution of proceedings

for a hearing.

D. Sanctions and/or other terms and conditions imposed by consent order entered by the Board of Nursing on the license to practice nursing may apply to the nurse practitioner certificate, provided the consent order has been accepted by the Committee of the Joint Boards of Medicine and Nursing.

DEPARTMENT OF TAXATION

Title of Regulations: Cigarette Sales Below Wholesale Cost Act:

VR 630-27-286. Public Policy; Prohibited Activities; Violation; Enforcement.

VR 630-27-287. Definitions.

VR 630-27-288. Combination Sales and Concessions.

VR 630-27-289. Unfair Method of Competition.

VR 630-27-290. Injunctive Relief and Damages.

VR 630-27-291. Revocation or Suspension of Licenses or Permits for Violations.

VR 630-27-292. Exemptions From Chapter.

VR 630-27-293 Special Cost Provisions; Cash and Carry.

Statutory Authority: §§ 58.1-203 and 59.1-291 of the Code of Virginia.

Public Hearing Date: January 10, 1986
(See Calendar of Events Section for additional information)

Summary:

These regulations are promulgated to enforce the Cigarette Sales Below Wholesale Cost Act and prohibit, as a violation with civil penalties, the advertisement, offer to sell or sale of cigarettes by a wholesaler at less than cost to the wholesaler as defined in the Act and these regulations.

Cigarette Sales Below Wholesale Cost Act:

VR 630-27-286. Public Policy; Prohibited Activities; Violation; Enforcement.

VR 630-27-287. Definitions.

VR 630-27-288. Combination Sales and Concessions.

VR 630-27-289. Unfair Method of Competition.

VR 630-27-290. Injunctive Relief and Damages.

VR 630-27-291. Revocation or Suspension of Licenses or Permits for Violations.

VR 630-27-292. Exemptions from Chapter.

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VR 630-27-293. Special Cost Provisions; Cash and Carry.

VR 630-27-286. Public Policy; Prohibited Activities; Violation; Enforcement.

§ 1. Generally.

In accordance with § 59.1-291 B of the Code of Virginia, the Tax Commissioner is required to promulgate regulations for the enforcement of the Cigarette Sales Below Wholesale Cost Act, Title 59.1, Chapter 23, § 59.1-285 et seq., of the Code of Virginia.

§ 2. The General Assembly has found that:

A. The advertisement, offer to sell or sale of cigarettes below wholesale cost:

1. Is an unfair, deceptive, and destructive business practice;
2. Fosters monopoly and high prices; and
3. Encourages sales of untaxed cigarettes.

B. Cigarettes are particularly susceptible to use as "bait" or "loss leaders" to deceive the public;

C. Cigarettes require special and individualized treatment of the problems created by advertising, offering, and selling cigarettes below wholesale cost;

D. The public interest will be promoted by the prohibition of such practices;

E. The sale of cigarettes below wholesale cost by wholesalers is contrary to the public interest, and shall be prohibited.

§ 3. These regulations are promulgated to enforce the Cigarette Sales Below Wholesale Cost Act and prohibit, as a violation with civil penalties, the advertisement, offer to sell or sale of cigarettes by a wholesaler at less than cost to the wholesaler as defined in the Cigarette Sales Below Wholesale Cost Act and these regulations.

§ 4. A violation of the prohibition of § 3 shall be penalized as set forth in VR 630-27-291 of these regulations.

VR 630-27-287. Definitions.

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

"Cigarettes" means any roll for smoking containing tobacco if the roll has a wrapper or cover made of paper or other material except tobacco. Cigars are not included in this definition.

"Cost to the wholesaler" means for the purposes of this act:

Manufacturer's invoiced - trade discounts + (a) freight charges cost of cigarettes

- (b) cartage cost
- (c) markup
- (d) state and local sales taxes paid

Manufacturer's invoiced cost of cigarettes is the actual cost of the specific cigarettes sold at the cost invoiced to the wholesaler by the manufacturer or other supplier or the replacement cost to the wholesaler, if lower at any time within 30 days prior to the date of sale, of similar cigarettes in the quantity last purchased.

The actual or replacement cost may be decreased by all trade discounts, but not by other customary discounts for cash or any anticipation discounts, by whatever name called.

"Discounts" affecting the cost to the wholesaler: (i) "anticipation discounts" is a discount taken against the invoice price for prepayment; (ii) "cash discount" is a deduction from the invoice price which the seller allows for payment within a certain time; e.g., 10% discount for payment within 10 days; (iii) "trade discount" is a discount from the list price offered to all customers of a given type; in contrast with a discount offered for prompt payment or a quantity discount. For cigarettes, only the trade discount is deductible in the computation of the cost to the wholesaler. (For noncigarette items see VR 630-27-288 E.)

Freight charges for delivery of cigarettes to the wholesaler are included in the cost to the wholesaler if not otherwise included in the cost of the cigarettes.

Cartage cost is included in the cost to the wholesaler if actually paid for delivery of cigarettes to the retail outlet; or, if delivery to the retailer is performed by the wholesaler, such cartage cost shall be presumed to be no less than 3/4 of 1.0% of the cost of the cigarettes to the wholesaler unless actual cartage cost to the wholesaler can be shown to be less than the presumed cost in which case actual cost may be used.

Cost to the wholesaler also includes a markup to cover in part the cost of doing business. The markup shall be not less than 2.0% of the cost of the cigarettes to the wholesaler which shall be invoice cost less any discounts allowed by manufacturer and taken and excluding freight charges included therein, plus any freight charges not otherwise included in the cost of the cigarettes.

Cost to the wholesaler includes state and local sales taxes paid by the wholesaler with respect to such cigarettes. "State and local sales taxes" means the amount of state tax imposed under Chapter 10, Article 1, § 58.1-1001 of the Code of Virginia (the cigarette excise tax)

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reduced by any discount allowed and actually taken under § 58.1-1009 of the Code of Virginia and the amount of any local cigarette tax imposed under the authority of Chapter 38, Article 7, § 58.1-3830, of the Code of Virginia, reduced by any local discount allowed and actually taken.

For purposes of computing carton price to the nearest whole cent, if the fraction is .005 or above it will be rounded off to the next higher cent; if the fraction is .0049 or below it will be rounded off the next lower cent. (i.e., \$3.725 equals \$3.73; \$3.7246 equals \$3.72.)

EXAMPLE: Wholesaler A sells and delivers cigarettes to Retailer B. This example computes the cost of the cigarettes to the wholesaler and therefore, the minimum price that can be charged to the retailer. No trade discount allowed in this example.

Invoiced cost per 1000 cigarettes	\$15.20
Freight charges for delivery to wholesaler	1.80
(unless included in invoice cost of cigarettes)	
Total invoice cost and freight	17.00
Plus 2 3/4% for cartage and markup4675
.....	17.4675
Plus cost of Virginia tobacco revenue stamps reduced by discount allowed and actually taken	1.1250
SUBTOTAL	18.5925

COST TO THE WHOLESALER PER CARTON OF 10 PACKS
of 20 cigarettes \$3.72
(computed by dividing subtotal by five and rounding off the decimal fraction to nearest whole cent)

NOTE: Amounts used in this example are not intended to have any relation to current costs.

“Person” means and includes individuals, partnerships, corporations, cooperatives, associations, or any other entities.

“Retailer” means and includes every person engaged in the business of making sales of cigarettes at retail within the Commonwealth; provided that, in the case of a person, engaged in the business of making sales of cigarettes both at retail and at wholesale, such term shall be applied only to the retail portion of such business.

“Wholesaler” means and includes (i) every person engaged in the business of purchasing cigarettes directly from a cigarette manufacturer; or (ii) who holds a wholesale dealer’s permit under § 58.1-1011 of the Code of Virginia.

The term “wholesaler” includes a person, who, as a subwholesaler (i) purchases cigarettes from another wholesaler solely for the purpose of bona fide resale to retailers other than those directly or indirectly owned, affiliated, or controlled by him; and (ii) services the retailers by maintaining an established place of business

for the sale of cigarettes including warehouse facilities, adequate inventory, proper accounting records, and necessary equipment and vehicles for the storage and distribution of cigarettes.

Sales of cigarettes by a cigarette wholesaler to a cigarette subwholesaler who meets the qualifications of (i) and (ii), above, represent accommodation sales, exempt from the provisions of this Act. (See VR 630-27-292).

“Wholesale sale of cigarettes” means any sale by a wholesaler made in the ordinary course of trade or in the conduct of the seller’s business to a retailer for resale. Sales made in the ordinary course of business include all cigarette sales of the wholesaler except sales exempted from the provisions of this chapter under the provisions of VR 630-27-292.

VR 630-27-288. Combination Sales and Concessions.

§ 1. Generally.

A wholesaler is prohibited from selling cigarettes in combination with the gift of other merchandise or in combination with the sale of other merchandise in such manner as to avoid the pricing requirements of this chapter.

§ 2. Specific prohibitions to combination sales and concessions.

Except as provided in VR 630-27-288(3), a wholesaler is limited in combination sales and concessions by the following prohibitions.

A. A wholesaler shall not sell cigarettes in combination with any other item of merchandise if the other item is given free of charge or sold at a price below its cost to the wholesaler.

For purposes of VR 630-27-288(A) “cost to the wholesaler” for other items of merchandise is determined in the same manner as for cigarettes in accordance with the procedures in VR 630-27-287, except no addition shall be made for cost of delivery to retail outlet or markup to cover costs of doing business and “cost to the wholesaler” may be further reduced by any discounts for the noncigarette merchandise.

B. A wholesaler shall not sell cigarettes in combination with any other item of merchandise if the total sale price for the cigarettes and all other items included in the sale is less than the sum of: (i) the cost of the cigarettes to the wholesaler and (ii) the cost to the wholesaler of all other items of merchandise included in the sale, including items given free of charge in connection with the sale.

C. A wholesaler shall not give cigarettes free of charge, except in the case of specially packaged manufacturers’ samples which are designated on the package as not to be sold.

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D. A wholesaler shall not make any rebate, advertising allowance, or any other concession by any means or device in connection with the sale of cigarettes whereby the cigarettes are in effect sold below their cost to the wholesaler. Patronage dividends payable by a purchasing cooperative and attributable to the sale of cigarettes are included in this prohibition to the extent such dividends reduce the wholesale price of cigarettes below their cost to the purchasing cooperative. Once the total cooperative distribution has been determined, the cooperative cannot use an individual member's cigarette purchases in computing the individual patronage dividend.

For example, Cooperative A, purchasing cooperative for member retail grocers, also sells cigarettes at wholesale to its members. Total patronage dividends available for distribution may include amounts in the form of manufacturers' trade discounts derived from total cooperative purchases.

E. Although the determination of the cost to the wholesaler for cigarettes may not exclude cash or anticipation discounts as previously defined, nothing in these regulations shall be construed as prohibiting the wholesaler from allowing his customers to take cash or anticipation discounts in combination sales on noncigarette items so long as (i) the noncigarette item invoice price to the retailer is not less than the cost to the wholesaler for such noncigarette item; and (ii) such cash or anticipation discount does not exceed 2.0% of the invoice price of the noncigarette items.

EXAMPLE: Wholesaler A sells candy and cigarettes and makes the following sale to a retailer.

	Wholesale Cost	Wholesale Selling Price	Cash Discount	Net Price
Candy	\$1,000.00	\$1,150.00	\$23.00	\$1,127.00
Cigarettes	\$185.93	\$191.51	-0-	\$191.51

NOTE: In this example the following assumptions are made:

1. Candy wholesale selling price includes a markup of 15% above wholesale cost.
2. Cigarette wholesale selling price includes a markup of 3.0% on wholesale cost.
3. The cash discount is 2.0% of the candy wholesale selling price.

This example shows that (i) a cash discount may be given on noncigarette items, (ii) that such discount cannot exceed 2.0% of the noncigarette items, and (iii) that the net price of the noncigarette items is not less than the wholesale cost of the noncigarette items.

§ 3. Exceptions to specific prohibitions.

A wholesaler is permitted to pass on to purchasers any reduction in cost of cigarettes which results from the following specific situations.

A. A wholesaler receives payment or compensation given by a manufacturer of cigarettes on a uniform and nondiscriminatory basis for promotional services. Such reduction in cost is limited to the manufacturer's payment or compensation to the wholesaler.

B. A wholesaler may reduce the cost of cigarettes by the amount of any coupon issued and ultimately redeemed by a cigarette manufacturer. Such reduction in cost is limited to the specific amount of coupons received for redemption.

VR 630-27-289. Unfair Method of Competition.

§ 1. Generally.

The law provides that any wholesaler who advertises, offers to sell, or sells cigarettes at less than cost to the wholesaler as defined in VR 630-27-287 or through combination sales and concessions as set out in VR 630-27-288(1), shall be, upon conviction, guilty of a Class 1 misdemeanor.

§ 2. Report of cost to the wholesaler.

In order for the department to assure that each wholesaler has determined its costs to the wholesaler of cigarettes and that each wholesaler is not selling below such cost, each wholesaler must annually file by January 30 a report of cost to the wholesaler. The report will list cigarette brands handled by the wholesaler, size/style package, and cost to the wholesaler. This list must be signed by an authorized person for each wholesaler and attest to be true and correct as to the information furnished in such list.

If information in the list changes during the year, each wholesaler must file a revised list within 30 days after the changes (i.e., changes in price, cost to wholesaler, or packaging).

The reports will be maintained by the department and used under VR 630-27-291.

EXAMPLE: Wholesaler A submits the following report on January 20, 198X.

Wholesaler A
XYZ Street
Anytown, VA

Report of Cost to the Wholesaler

Brand	Size/Style Package	Packs Per Carton	Computed Cost to Wholesaler
Camel Lights	20's Kings	10	\$6.93
King-Size/Filter Tip			

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Doral Menthol King-Size/Filter Tip	20's Kings	10	\$4.18
Marlboro Filter Soft Pack	20's Kings	10	\$6.93
Marlboro Lights 25's Filter Soft Pack	25's Kings	8	\$6.93
Pall Mall	20's Kings	10	\$6.98
Lucky Strike L.T. Filter	20's Kings	10	\$6.73

I declare that the foregoing list has been examined by me, and is complete, true, and correct as to every material matter.

1/20/198X	Joan Doe	President
Date	Signature of Officer	Title
Wholesaler A, XYZ Street Anytown, Virginia		
Company name and address		

NOTE: Amounts used in this example are not intended to have any relation to current costs.

VR 630-27-290. Injunctive Relief and Damages: Costs and Attorney's Fees.

§ 1. Generally.

Any person is entitled to sue for and have injunctive relief in any court of competent jurisdiction against any threatened loss or injury by reason of a violation of the Cigarette Sales Below Wholesale Cost Act. Such person is entitled to sue for and have injunctive relief without being required to allege or prove the lack of an adequate remedy at law. This is a private remedy for which the Department of Taxation has no responsibility.

§ 2. Actual damages.

If actual damages to the plaintiff are proven, the plaintiff is entitled to recover from the defendant such actual damages.

§ 3. Costs and attorney's fees.

The court may award costs and reasonable attorneys' fees to a plaintiff entitled to relief in a proceeding brought to enforce this private remedy.

VR 630-27-291. Revocation or Suspension of Licenses or Permits For Violations.

§ 1. Generally.

The Tax Commissioner, upon notice and after hearing

and finding of violation, shall suspend any permit issued under the provision of Title 58.1, Chapter 10, Article 1, § 58.1-1011, of the Code of Virginia from the time a cigarette wholesale dealer is found to be violating the Act until it has been satisfactorily demonstrated that all violations have ceased. In no case will the period of suspension be less than 30 calendar days. Such permit is the cigarette wholesale dealer's permit to purchase and affix Virginia tobacco revenue stamps.

During the period of violation, no cigarette stamps will be sold to the wholesaler whose permit has been suspended except to the extent necessary to permit the wholesaler to comply with § 58.1-1013 of the Code of Virginia by affixing stamps to unstamped cigarettes in inventory or in transit from manufacturers for purchases prior to suspension.

NOTE: § 59.1-291 of the Code of Virginia refers to suspension or revocation of a license of any cigarette wholesaler as well as the permit noted above. Such license was the Tobacco Dealers license required by former § 58-402 of the Code of Virginia. The requirement for such license was repealed by Chapter 633, 1982 Acts of Assembly.

§ 2. Review of complaints and hearings for suspension of cigarette wholesale dealer's permit.

All written submittals, oral arguments, case conferences and hearings will be held in Richmond, Virginia unless the Tax Commissioner, (hereinafter "commissioner"), provides for a different location.

A. Any party wishing to file a complaint under the Cigarette Sales Below Wholesale Cost Act, (hereinafter "Act"), must submit a written complaint addressed to the Tax Commissioner, P.O. Box 6-L, Richmond, Va. 23282. Such complaint must be supported by sufficient, credible, material evidence to conclude that it is likely that a violation of the Act occurred. The complainant must also deliver or mail a copy of the written complaint and all supporting evidence to the alleged violator and certify at the end of the written complaint filed with the Tax Commissioner that this requirement has been satisfied.

B. The commissioner will review the complaint and evidence submitted and determine if the complaint is supported by sufficient evidence to warrant further action.

1. If the complaint does not include supporting evidence sufficient to show a probable violation of the Act, the commissioner will reject the complaint, notify the complainant and alleged violator of the rejection and advise that no further action will be taken by the department in regard to the complaint.

2. If the complaint includes supporting evidence sufficient to show a probable violation of the Act, within a reasonable length of time not to exceed 15 days from receipt of such complaint, the

commissioner, or his designee, will provide notice to the complainant and alleged violator, and subsequent to notification, will conduct a formal evidentiary hearing by following the procedures provided by § 9-6.14:12 of the Administrative Process Act. The hearing will afford the complainant an opportunity to prove his allegation of violation and will afford the alleged violator an opportunity to rebut such allegations. The burden of proof of violation will be upon the complainant.

C. Within 30 days following the evidentiary hearing, the commissioner will issue an order on the alleged violation.

1. If the permit is not suspended, the order will state that the evidence presented in the evidentiary hearing was not sufficient to show a violation of the Act or such other reason as warrants a finding of no violation.

2. If the permit is suspended, the order will state a length of suspension, a prohibition against the sale of tobacco stamps to the wholesaler, and such other provisions as deemed necessary. In no case will the period of suspension be less than 30 calendar days.

D. If the evidence presented to the commissioner is that the alleged violator has been convicted of a criminal violation or has suffered an adverse judgment in a civil proceeding for injunctive and monetary relief, the hearing procedure will be modified to a show cause proceeding where the alleged violator will be required to show why his license should not be suspended or revoked.

E. If the alleged violator has successfully defended either a criminal or civil action based upon the same events contained in the complaint filed with the commissioner, such complaint will be dismissed.

§ 3. Court appeal of permit suspension.

Any cigarette wholesale dealer, whose permit has been suspended by the decision, order or finding of the Tax Commissioner in VR 630-27-291(2), may appeal to the circuit court of the county or city in which he resides or has his principal place of business or to the Circuit Court of the City of Richmond, if such person is a nonresident or does not have a principal place of business in this Commonwealth.

§ 4. Provisions of suspension.

The suspension of the cigarette wholesale dealer's permit suspends any privileges provided such wholesaler under § 58.1-1011 of the Code of Virginia.

§ 5. Termination of suspension.

Subsequent to the specific period of suspension which will be set out in the commissioner's order, the cigarette wholesaler must provide the commissioner with sufficient,

credible, material evidence establishing current compliance with the provisions of the Cigarette Sales Below Wholesale Cost Act. The commissioner shall act upon such evidence within five working days of receipt. The commissioner may terminate the provisions of suspension of permit on the basis of the evidence presented. Such termination of suspension will be in the form of an order from the commissioner.

VR 630-27-292. Exemptions From Chapter.

Generally.

The provisions of the Cigarette Sales Below Wholesale Cost Act will not apply to sales at wholesale in the following specific situations.

A. Cigarettes are sold at bona fide clearance sales. Such clearance sales must be advertised as such and all cigarettes must be marked and sold as bona fide clearance sale items.

B. Cigarettes are imperfect or damaged, or are being discontinued. Such sale must be advertised as such and all cigarettes must be marked and sold as imperfect, damaged or discontinued.

C. Cigarettes are sold upon the final liquidation of any business.

D. Cigarettes are sold for charitable purposes or to relief agencies.

E. Cigarettes are sold on contract to departments of government or governmental institutions.

F. Cigarettes are sold by one wholesaler to another wholesaler for the purpose of accommodation.

G. Cigarettes are sold by any officer acting under the order or direction of any court or by any fiduciary or by any trustee in a deed of trust or deed of assignment for the benefit of creditors.

VR 630-27-293. Special Cost Provisions; Cash and Carry; Wholesaler to Wholesaler.

§ 1. Generally.

The "cost to the wholesaler," as defined in VR 630-27-287, may be adjusted in certain specific wholesale sales. The presumptive cartage cost of 3/4 of 1.0% provided in the "cost to the wholesaler" definition may be reduced or eliminated for each carton of cigarettes as shown in examples below. Such reduction or elimination is limited to wholesale sale of cigarettes when: (i) the cigarettes are not delivered unless their full price is received by the wholesaler at or before delivery; and (ii) the purchaser performs or pays for the cartage cost of the cigarettes to the place of business of the purchaser.

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Example of MINIMUM WHOLESALE CIGARETTE PRICES - with drayage (State cigarette tax, net after discount, 2.25 cents per pack of 20 and carton of 10 packs applicable)

If list price per 1000 cigarettes is	\$15.20	\$15.70
Plus 2 3/4%	.418	.43175
Result	\$15.618	\$16.13175
Plus cost of Virginia revenue stamps reduced by discount allowed and actually taken Per 1000 cigarettes	1.125	1.125
Subtotal:	\$16.743	\$17.25675
MINIMUM PRICE PER CARTON OF 10 packs of 20 cigarettes (computed by dividing subtotal by five and rounding off the decimal fraction to nearest whole cent)	\$ 3.35	\$ 3.45

To determine the minimum price for any number of cartons, multiply the minimum price per carton by the number of cartons.

Example of MINIMUM WHOLESALE CIGARETTE PRICES - without drayage (State cigarette tax, net after discount, 2.25 cents per pack of 20 and carton of 10 packs applicable)

If list price per 1000 cigarettes	\$15.20	\$15.70
Plus 2%	.304	.314
Result	\$15.504	\$16.014
Plus cost of Virginia revenue stamps reduced by discount allowed and actually taken per 1000 cigarettes	1.125	1.125
Subtotal:	\$16.629	\$17.139
MINIMUM PRICE PER CARTON OF 10 packs of 20 cigarettes (computed by dividing subtotal by five and rounding off the decimal fraction to nearest whole cent)	\$ 3.33	\$ 3.43

To determine the minimum price for any number of cartons, multiply the minimum price per carton by the number of cartons.

NOTES: 1. The examples do not include local cigarette taxes. Those wholesalers doing business in a city, town or county which imposes a local cigarette tax must include in the computation such local tax in addition to the state tax.
2. Amounts used in these examples are not intended to have any relation to current costs.

§ 2. If a wholesaler purchases cigarettes from another wholesaler, then, on resale of the cigarettes to a retailer, the purchasing wholesaler is the wholesaler for the purposes of the Cigarette Sales Below Wholesale Cost Act.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

VIRGINIA DEPARTMENT FOR THE AGING

The Virginia Department for the Aging has REPEALED the following:

Title of Regulation: Regulations Concerning Area Plans for Aging Services.

Statutory Authority: § 2.1-373(7) of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

The Department for the Aging has repealed its regulation concerning Area Plans for Aging Services, effective December 11, 1985.

The Department for the Aging took this action because some sections of the regulation were outdated and other sections duplicated provisions in the State Plan for Aging Services approved by the Governor.

The regulation (i) sets forth methods for designating planning and service areas and area agencies on aging in Virginia; (ii) described the process of allocating funds among the planning and service areas, and (iii) provides guidance to the area agencies on aging in the development and implementation of their area plans for aging services.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulations: VR 115-02-09. Guidelines Pertaining to a Pound or Enclosure to be Maintained by Each County or City.

Statutory Authority: § 29-213.66 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation sets forth uniform standards to follow in the construction and operation of animal pounds and enclosures in Virginia. It replaces Regulation AHD 15 of the same title. Improvement in clarity of the document has been made without the addition of any substantive changes.

VR 115-02-09. Guidelines Pertaining to a Pound or

Enclosure to be Maintained by Each County or City.

§ 1. *Water supply.*

~~Section 15.1~~

Water for drinking shall originate from a potable source.

§ 2. *Drinking water devices.*

~~Section 15.2~~

Each confinement area shall be provided with a durable nontoxic water bowl or an automatic watering device. Drinking water receptacles or bowls shall be secured in a fixed position or be of the type that cannot be tipped over by the animal.

§ 3. *Solid waste disposal.*

~~Section 15.3~~

The disposal of all solid wastes shall meet the requirements of any applicable local ordinances, state laws, or regulations governing the disposal of solid wastes.

§ 4. *Minimum animal housing standards.*

~~Section 15.4~~

A. All kennel buildings and enclosures shall provide adequate protection against weather extremes for each animal. The floors and wall walls of such enclosures, buildings, and runs shall be of a surface material that will permit proper cleaning and disinfecting. Building temperature shall be maintained at a temperature comfortable for each animal. Each such building and enclosure shall provide adequate ventilation for each animal and shall be kept clean, dry, and in a sanitary condition.

B. Animals shall be maintained in quarters so as to prevent their escape, protect them from injury, and safeguard them from being stolen.

C. Provisions shall be made for the separation of animals according to species, sex, age, and temperament.

§ 5. *Individual cage construction and size.*

~~Section 15.5~~

A. Acceptable materials for cage construction are stainless steel, fiberglass, heavy galvanized metal,

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galvanized wire, or their equivalent. Individual cages shall have solid bottoms.

B. Pallets or resting boards constructed of a nonporous material may be provided so animals can rest or sleep off the floor.

C. Primary enclosures for all animals shall be constructed and maintained so as to provide sufficient space to allow each animal to turn freely and to easily stand, sit, and lie in a comfortable position.

§ 6. Cleaning of the confinement area.

Section 15.6

A. There shall be faucet and hose connections provided at convenient locations for washing and cleaning the animal housing area.

B. Disinfectants or germicidal agents shall be used when cleaning the housing or confinement area.

Accessibility

~~Section 15.7. The pound shall be open to the public at reasonable hours during the week. The hours of operation of the pound shall be posted so as to be readily seen by the public.~~

§ 7. Food preparation and storage area.

Section 15.8

Where a food preparation and storage area is maintained for the pound, that area shall be adequately equipped to store and prepare food for animals. The equipment and utensils used in the preparation and serving of food to the animals shall be made of materials which are easily cleanable, noncorrosive, and nontoxic. Bins used to store foods shall provide protection against insects and rodents. Food shall not be stored directly on the floor, but shall be on shelves or pallets a minimum of 12 inches above the floor, or in bins on rollable casters. Perishable food shall be refrigerated or disposed of as necessary. A sink equipped with hot and cold water shall be provided for cleaning equipment and utensils.

§ 8. Euthanasia.

Section 15.9

Euthanasia shall be performed in ~~accordance~~ *compliance* with methods approved or prescribed by the State Veterinarian.

§ 9. Disposal in 24 hours.

Section 15.10

A. Unrefrigerated dead animals shall be disposed of

within 24 hours by burial, incineration, or ~~any other method~~ *methods* acceptable to the Department of Health. Dead animals may be refrigerated and accumulated ~~until the owner has collected a quantity~~ for disposal by an approved method.

B. No animal shall be buried, incinerated, or otherwise disposed of until it has been positively determined that death has occurred.

§ 10. Isolation and observation area.

Section 15.11

Provisions shall be made for a designated and marked observation and isolation area for incoming animals which are ill or suspected of being ill. These animals shall be confined separately in this area and held a minimum of 48 hours before being placed in the main housing area.

Existing Facilities

Section 15.12

~~Section 12. The Virginia Department of Agriculture and Consumer Services shall develop a fair and effective method for handling existing facilities that do not meet these guidelines. The provision shall apply to pounds or enclosures constructed prior to January 1, 1981.~~

§ 11. Approval of plans and specifications.

Section 15.13

In order to facilitate uniform interpretation and application of these guidelines, it is strongly recommended that each county or city submit plans and specifications to the department for review and approval prior to beginning new construction or renovation projects. The *Virginia Department of Agriculture and Consumer Services* will provide assistance and advice concerning the adequacy of minimum housing and individual cage construction.

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Division of Animal Health and Dairies

CHECKLIST RELATIVE TO CONFORMANCE WITH GUIDELINES ESTABLISHED FOR A POUND OR ENCLOSURE TO BE MAINTAINED BY EACH COUNTY OR CITY**

County or City of _____ Date of Review _____

Owner of Pound or Enclosure: County, City, Private, Combination, Other

Mailing address of pound or enclosure (Give location of pound or enclosure if not located at mailing address).

Name, address and telephone number of operator or official directly in charge of the day-to-day operation of the pound or enclosure:

Name _____ Address _____ Phone _____

Name of Reviewer _____ Accompanied by _____

	Requirement	Requirement Status**		
		ACC	UAC	AC
1	Water Supply			
2	Drinking Water Devices			
3	Solid Waste Disposal			
4	Minimum Animal Housing Standards			
5	Individual Cage Construction and Size			
6	Cleaning of the Confinement Area			
7	Food Preparation and Storage Area			
8	Euthanasia			
9	Disposal in 24 Hours			
10	Isolation and Observation Area			

** Authority for Guidelines: Title 29, Chapter 9.4, Article 4, Section 29-213.66 of the Code of Virginia (1950) as amended. Guidelines 1 - 10 were adopted by the Board of Agriculture and Consumer Services on September 22, 1980.

*** ACC - Acceptable UAC - Unacceptable ACV - Acceptable Variation

Items marked unacceptable (UAC) or acceptable variation (ACV) must be explained in writing on a sheet(s) attached to the Checklist.

If you have any questions about the review, please contact Dr. _____
Division of Animal Health and Dairies, Virginia Department
of Agriculture and Consumer Services,
telephone _____

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* * * * *

Title of Regulations: VR 115-02-10. Rules and Regulations Governing the Recordkeeping by Virginia Cattle Dealers for the Control or Eradication of Brucellosis of Cattle.

Statutory Authority: §§ 3.1-724 and 3.1-730 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation requires certain records to be maintained by cattle dealers in Virginia when cattle are bought, sold, or moved by them for breeding or replacement purposes. It replaces Regulation AHD 16 entitled "Recordkeeping by Virginia Cattle Dealers for the Control or Eradication of Brucellosis of Cattle." No new regulatory requirements are contained in the revised regulation. Its clarity has been improved through use of better grammar and sentence structure.

VR 115-02-10. Rules and Regulations Governing the Recordkeeping by Virginia Cattle Dealers for the Control or Eradication of Brucellosis of Cattle.

Section 16-1. Purpose of Regulation AHD 16:

This regulation is necessary in order to:

A. Comply with the National Brucellosis Eradication Program; Uniform Methods and Rules (U.M. & R.); USDA APHIS 91.1.

B. Control or eradicate brucellosis of cattle. Brucellosis affecting domestic cattle continues to exist in this state, and the existence thereof endangers the health and welfare of the people of the state.

§ 1. Definitions.

Section 16-2

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

"Agent" means any person, firm, association, partnership, or corporation buying, or receiving, or soliciting, or negotiating the sale of animals for, or on behalf of, any dealer.

"Cattle" means all animals of the bovine species except steers and animals under one year of age.

"Cattle dealer" means any person, not a market agency, who routinely engages in the business of buying, selling, exchanging, or bartering cattle in the Commonwealth of Virginia for his own account or that of another person.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Identification" means sale or purchase units of cattle shall be identified so as to make them distinguishable from all other cattle. Those cattle which cannot be specifically identified by color, markings, and/or for appearance shall be identified by a numerical insignia affixed to some part of the body of that animal. This numerical insignia may be, but is not limited to, one of the following: tattoo, brand, ear tag, back tag, or bangle tag.

"Official health certificate" means a certificate issued by a licensed graduate, accredited veterinarian approved by the health official of the state of origin; or issued by a veterinarian in the employment of the state of origin; or by a veterinarian in the employ of the Veterinary Services Division, Animal and Plant Health Inspection Service, United States Department of Agriculture; or such other veterinarian as may be approved by the State Veterinarian. As a minimum, the certificate shall contain the names and exact destination of the animals or birds covered, and the current health status of these individuals with dates and results of all required tests. The certificate shall be legible and bear the endorsement of the livestock health official of the state of origin.

"State Veterinarian" A veterinarian employed by the Virginia Department of Agriculture and Consumer Services who is responsible for animal health programs in the State, means a Virginia Department of Agriculture and Consumer Services veterinarian employed by the Commissioner of Agriculture and Consumer Services who is responsible for the animal health programs in the Commonwealth of Virginia.

§ 2. Exceptions.

Section 16-3

A. Nothing in this regulation shall apply to:

1. A person who sells only cattle which he has produced.
2. A person who purchases only cattle for immediate (direct) slaughter.

§ 3. Dealer Registration.

Section 16-4

A. Each cattle dealer or his agent in the Commonwealth of Virginia shall be registered with the State Veterinarian, Washington Building, Sixth Floor, 1100 Bank Street, Richmond, Virginia 23210.

B. A registration card will be issued to each cattle dealer or his agent, and said dealer or his agent and that person shall have that card in his possession at all times

while engaged in the business of dealing in cattle.

Section 16.5. Records Requirement.

(This section has been included in § 4.6.)

Each registered cattle dealer or his agent shall maintain a record of all cattle purchased, sold or otherwise handled by him as defined in Section 16.2 (C) of this regulation.

§ 4. Contents of Records.

Section 16.6

A. The records required by Section 16.5 of this regulation shall include the following information, which shall be recorded immediately upon the completion of each transaction :

1. Record of the identification of each animal.
2. The name and address of the person or firm from whom the animal was purchased and the date of such purchase. If such animal was purchased at a cattle sale, the name and address of the selling agent and date of purchase shall be recorded.
3. The name and address of the person or firm to whom the animal was sold and the date of such sale. If such animal was sold at a cattle sale, the name and address of the buying agent and date of such consignment shall be recorded.
4. The breed (Example: Holstein, Hereford, Angus) or type (beef or dairy) of each animal.
5. The date and result of any test performed for sale or movement of each animal, or a copy of any official test record.
6. Each registered cattle dealer or his agent shall maintain a record of all cattle purchased, sold, or otherwise handled by him as defined in § 16.2(C) § 1. "Cattle Dealers".
7. The records as required in Section 16.5 and 16.6 of § 4. of this regulation shall be kept and retained in the possession of the cattle dealer or his agent for a period of at least two years after the date of each transaction.

Section 16.7. Retention of Records.

(This section has been incorporated into Section 4.7.)

The records as required in Section 16.5 and 16.6 of this regulation shall be kept and retained in the possession of the cattle dealer or his agents for a period of at least two years after the date of each transaction.

§ 5. Inspection of records.

Section 16.8

Every cattle dealer or his agent shall, during all reasonable hours, shall permit the State Veterinarian or his representative to have access to and to copy any and all records made and retained as required by this regulation. Said Such copies are for the express use of the department and further dissemination thereof is prohibited except as required by law.

§ 6. Identification not to be altered.

Section 16.9

The removal or altering of the identification of any cattle to the herd of origin by any cattle dealer or his agent which would prevent the identification of such cattle to the herd of origin is prohibited.

§ 7. Out-of-state cattle.

Section 16.10

All cattle imported into Virginia shall comply with the health requirements governing the admission of cattle into Virginia. (Regulation AHD 5, Department of Agriculture and Consumer Services, Division of Animal Health and Dairies) as well as each and every requirement of this regulation. A copy of the official health certificate shall be delivered to the final purchaser by the dealer.

§ 8. Denial, suspension or cancellation of registration.

Section 16.11

A. The State Veterinarian shall have the authority, after due notice and opportunity for hearing to the individual or firm involved, to deny an application for registration, or to suspend, or cancel the registration as of a cattle dealer when the State Veterinarian has determined one or more of the following: that a cattle dealer or his agent has:

1. That said cattle dealer or his agent has Violated state or federal statutes laws or official regulations governing the interstate or intrastate movement, shipment, or transportation of cattle.
2. That said cattle dealer or his agent has Made false or misleading statements in their the application for registration.
3. That said cattle dealer or his agent has Sold cattle for dairy or breeding purposes ; cattle which he knew were affected with brucellosis ; or that said cattle dealer or his agent has made false or misleading statements as to the brucellosis status or official test results of the cattle.
4. That said cattle dealer or his agent has Removed or altered the identification of any cattle which would prevent the identification of such cattle to the herd of

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origin.

5. ~~That said cattle dealer or his agent has~~ Failed to carry out the requirements of this regulation.

6. ~~That said cattle dealer or his agent has~~ Made false or misleading entries in the records that are required by this regulation.

B. Nothing in this regulation shall be construed as requiring the ~~Commissioner~~ *department* to report for prosecution or for the denial, suspension or cancellation of registration, minor violations of this regulation whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

A P P L I C A T I O N

REGISTRATION FOR VIRGINIA CATTLE DEALERS AND AGENTS

NAME: _____

OTHER NAME(S) UNDER WHICH BUSINESS IS TRANSACTED: _____

BUSINESS ADDRESS: _____

HOME ADDRESS: (If different from above) _____

MAILING ADDRESS: (Check one) _____ BUSINESS ADDRESS _____ HOME ADDRESS

PHONE: (BUSINESS) _____ (HOME) _____

IF NOT SELF-EMPLOYED, LIST NAME AND ADDRESS OF EMPLOYER:

NAME AND ADDRESS OF ANY AGENTS WHO ARE EMPLOYED BY YOU:

OTHER COMMENTS BY APPLICANT:

FOR OFFICE USE ONLY

DATE APPLICATION RECEIVED: _____ DATE APPROVED: _____

DATE APPLICATION REJECTED: _____

REASONS: _____

DATE CARD MAILED: _____ CARD NUMBER: _____

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not transferable

DACS-00060-B

Virginia Department of Agriculture and Consumer Services

P. O. Box 1163, Richmond, Virginia 23209

ISSUED

PERMIT

PERMIT
NUMBER

EXPIRES

Issued in accordance with application duly executed by the
below who has agreed to comply with all applicable laws, rules and regulations
and has paid the required fee of _____ shown

┌



└

COMMISSIONER

BY

AUTHORIZED REPRESENTATIVE

not transferable

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

P. O. Box 1163, Richmond, Virginia 23209

PERMIT

(FOLD HERE)

EXPIRES

PERMIT NUMBER

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└

BY

AUTHORIZED REPRESENTATIVE

* * * * *

Title of Regulations: VR 115-02-11. Rules and Regulations Governing Laboratory Fees for Services Rendered or Performed.

Statutory Authority: § 3.1-725 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation replaces regulation ADH 14 entitled "Rules and Regulations Pertaining to Laboratory Fees for Services Rendered or Performed." It makes available on a fee for service basis to practicing veterinarians in Virginia laboratory diagnostic disciplines for companion animals and birds, and exotic animals and birds.

VR 115-02-11. Rules and Regulations Governing Laboratory Fees for Services Rendered or Performed.

§ 1. Prescribing and collecting fees; establishment of laboratory services; fee schedule review.

Section 14.1

A. The board authorizes the State Veterinarian to prescribe and collect reasonable fees for laboratory services rendered or performed relative to companion animals and birds, and exotic animals and birds. The State Veterinarian is further authorized to establish the laboratory services that are to be rendered or performed for a fee.

B. The State Veterinarian shall maintain a current schedule of fees being charged for laboratory services rendered or performed. The State Veterinarian shall submit any significant changes in the laboratory services or in the fee schedules to the board. Any person wishing to comment on the changes may do so by writing to the secretary of the board.

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VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
DIVISION OF ANIMAL HEALTH
Washington Building, Suite 600
1100 Bank Street
Richmond, Virginia 23219

*** STATEMENT ***

NO. _____ DATE _____

[_____]

[_____]

THIS AMOUNT DUE WITHIN 30 DAYS \$ _____

Make check payable to TREASURER OF VIRGINIA.

PLEASE PUT YOUR STATEMENT NO. ON YOUR CHECK

Social Security No.: _____

PLEASE DETACH AND RETURN THIS PORTION WITH PAYMENT

NO. _____

PREVIOUS UNPAID BALANCE _____ \$ _____

TESTING FOR THE MONTH OF _____

(301-303-01-531-01-09060) Brucellosis samples @ \$ _____ each \$ _____

(301-352-02-531-02-02637) C.E.M. samples @ \$ _____ each \$ _____

(301-350-02-531-02-02637) EIA samples @ \$ _____ each \$ _____

Laboratory Services \$ _____
(301-351-02-531-02-02637)

Other Services \$ _____

TOTAL AMOUNT DUE \$ _____

Itemized explanation of services rendered can be obtained from this office upon request.

Final Regulations

Department of Agriculture and Consumer Services
Division of Animal Health and Dairies

FEE BASIS

BUREAU OF LABORATORY SERVICES

FEE BASIS

SPECIMEN SUBMISSION

COMPANION OR EXOTIC ANIMAL OR BIRD

LABORATORY _____ LAB. NUMBER _____ DATE REC'D. _____ REPORTED _____

OWNER _____ ADDRESS _____

VETERINARIAN _____ ADDRESS _____

SPECIMEN _____ CONDITION _____

SPECIES _____ BREED _____ SEX _____ AGE _____ COUNTY _____

REGION OF BODY IF GROWTH _____

NUMBER SICK _____ NUMBER LOST _____ NUMBER IN GROUP _____

VACCINE RECEIVED _____

TREATMENT RECEIVED _____

CLINICAL TEST RESULTS _____

CLINICAL SYMPTOMS _____

NECROPSY FINDINGS _____

DISEASE SUSPECTED _____

TEST REQUESTED: Submitting veterinarian will be billed for these services:

_____ Necropsy	_____ Toxicology
_____ Examination of Tissues Submitted	_____ Virology
_____ Bacteriology	_____ Canine Brucella
_____ Hematology	_____ Feline Leukemia
_____ Histopathology	_____ Leptospirosis
_____ Mycology	_____ Microfilaria
_____ Parasitology	_____ Other Serology

Distribution: Original - AH&D Administrative Office
Copies - as needed

Signature of Licensed Veterinarian - must be signed
by submitting veterinarian

BLS - 2-84

Final Regulations

* * * * *

Title of Regulations: VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds into Virginia.

Statutory Authority: §§ 3.1-724 and 3.1-730 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation prescribes the qualification and requirements that animals must meet upon admission to Virginia and the official certificates that must accompany them. It replaces Regulation AHD 5 entitled "Health Requirements Governing the Admission of Livestock into Virginia." The new regulation incorporates several requirements previously contained in three Limited General Orders which are being repealed. No other substantive changes are included in the new document. Its clarity has been improved by several changes in grammar and sentence structure.

VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds into Virginia.

§ 1. Definitions.

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

"Dogs" shall include means all domestic and wild members of the dog family (Canidae).

"Hatching eggs" shall include means chicken eggs and turkey eggs which are, or which are intended to be, used for hatching purposes.

"Horses" ~~The term as used herein is intended to imply~~ means all horse-like animals, embracing all members of the equine species including ponies, the asinine species, and burros ; ~~and~~ . It also ~~including~~ includes the hybrid offspring of the equine and asinine species by whatever name they may be known, such as mules, hinnies, and donkeys.

"Monkeys" shall include means all monkeys and other primates, such as lemurs, marmosets, chimpanzees, and other apes.

"Poultry" shall include means chickens and turkeys of all varieties and of all ages.

"Psittacine birds" shall include means parrots, cockatoos, parakeets, and budgerigars.

Section 5:1

§ 2. Official health certificates.

A. No livestock, other animals, poultry, or other birds, of any species, that are affected with or that have been exposed to any infectious or contagious disease shall be imported into Virginia except by special approval by the State Veterinarian.

B. All livestock, other animals, poultry, or other birds imported into Virginia, except for immediate slaughter, shall be accompanied by an official health certificate, which shall be attached to the waybill or shall be in the possession of the person in charge of such animals or birds, and a copy of such health certificate shall be forwarded promptly to the State Veterinarian of the Commonwealth of Virginia.

C. An official health certificate shall be a written record ~~covering meeting~~ the requirements of the Commonwealth of Virginia, executed on an approved form of state of origin. It shall contain the names and exact addresses of the consignor and consignee and the exact destination of the animals or birds covered ; and . It shall indicate the health status of the animals or birds, ~~including and include~~ the dates and results of all required tests.

1. The official health certificate shall be issued, following physical examination of the animals or birds involved and completion of all required tests, within 30 days prior to the date of entry of such animals or birds, unless a different time limit is set hereinafter; After physical examination of the animals or birds and completion of all required tests, the official health certificate shall be issued within 30 days before the date of their entry, unless a different time limit is set elsewhere in this regulation. The certificate shall be issued by a licensed, graduate, accredited veterinarian approved by the livestock health official of the state of origin ; ; a veterinarian in the employ of the state of origin ; ; or a veterinarian in the employ of the Veterinary Services Division, Animal and Plant Health Inspection Services, United States Department of Agriculture ; ; or such other veterinarian as may be approved by the State Veterinarian of Virginia .

2. All copies of ~~such~~ the official health certificate, including the original, shall be legible, and shall bear the endorsement of the livestock health official of the state of origin.

D. The requirements for the importation of livestock, other animals, poultry and other birds for exhibition purposes shall be the same as the requirements governing the admission of such animals and birds for breeding purposes, unless specific exceptions are made hereinafter.

Section 5:2

§ 3. Entry by permit only.

A. When the State Veterinarian is informed of the existence of any unusual or serious outbreak of disease among livestock or poultry in any other state or states; or any condition or circumstances, state which, in his opinion, constitutes a threat to livestock or poultry in Virginia and which in his opinion may introduce such disease into Virginia, he shall by proclamation prohibit the entrance into Virginia for any purpose, of any livestock or poultry; originating which originate either directly or indirectly from such other state or states, or state. He may also prohibit the entrance of any "products" thereof as that term as defined in the meat or poultry inspection regulations of the United States Department of Agriculture, or in the Virginia Meat and Poultry Products Inspection Act, the Virginia Milk and Cream Law, or any other applicable or related Virginia statutes and any regulations promulgated thereunder, except by special written permit.

B. All requests for special permits must be in writing or by wire, directed to the State Veterinarian of the State of Virginia, and must give such information as the State Veterinarian may require. All requests for special permits must be directed to the State Veterinarian in writing or by wire, and must give such information as he may require.

C. All livestock or poultry, or products thereof, entering Virginia under such special permit must be consigned to a definite legal resident of Virginia. Under such special permit, all livestock, poultry, or products thereof entering Virginia must be consigned to a definite legal resident of Virginia.

Section 5.3

§ 4. Common carriers, trucks.

A. Owners and operators of common carriers, trucks, or other conveyances are forbidden to move any livestock or poultry into Virginia except in compliance with the provisions set forth in this regulation.

B. All railway cars, trucks, and other conveyances used for transportation of livestock or poultry must be kept in a sanitary condition. The State Veterinarian may require the cleaning and disinfecting of any such conveyance at such any time or times as he may deem necessary to prevent the spread of infectious or contagious diseases.

Section 5.4

§ 5. Cattle.

A. Tuberculosis.

1. Cattle for dairy or breeding purposes may enter the Commonwealth of Virginia if they are accompanied by a certificate and signed by the State Veterinarian of the state of origin stating that the cattle originate directly from officially certified tuberculosis-free areas; or officially from accredited or negative-tested herds

; and are officially identified as being of such origin.

2. Cattle for dairy or breeding purposes originating from areas or herds other than as specified in subparagraph 1, immediately above A.1 of this section must have been found negative to an individual official test for tuberculosis within 60 days prior to entry.

3. Cattle originating directly or indirectly from herds quarantined or subject to quarantine under State-Federal Uniform Methods and Rules (Code of Federal Regulations, Title 9, Chapter I, Parts 1 to 199) for the eradication of tuberculosis are not eligible for entry, except for immediate slaughter under special permit issued by the State Veterinarian of Virginia.

B. Brucellosis.

1. Permit.

a. Cattle for dairy or breeding purposes that originate from Class B (herd infection rate less than 1.5%) or Class C (herd infection rate more than 1.5%) states may enter the Commonwealth of Virginia, provided that they are accompanied by a prior permit issued by the State Veterinarian of Virginia.

b. Permits may be obtained by the Virginia purchaser or consignee by contacting the State Veterinarian's Office Washington Building, Suite 600, 1100 Bank Street, Richmond, Virginia 23219. (Telephone Number 804 786-2483 or 804 786-2481) Telephone permits are issued during normal working hours: 8:00 A.M. to 4:30 P.M.

c. Permits are void expire 15 days after date of issuance.

d. The following information must be furnished before permits are issued: area or state status, herd status, individual status, vaccination status, name and address of consignor and consignee, and any other information the State Veterinarian may desire require.

2. Brucellosis testing.

When individual testing is required hereinafter on female cattle, those of the dairy breeds under 20 months of age and those of the beef breeds under 24 months of age are exempt from such testing, provided that they have been officially calfhood vaccinated in the state of origin against brucellosis and that fact has been certified by the State Veterinarian of the state of origin. Nonvaccinates (male or female) are exempt from testing if under eight months of age.

3. Classification of states.

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Cattle for dairy or breeding purposes which originate directly from officially classified states may enter Virginia, provided *that* they are accompanied by an Official Health Certificate and also meet the following requirements:

a. Class: Free states.

- (1) No herd status
- (2) No individual test
- (3) No permit.

b. Class: A states.

- (1) Negative herd status, or
- (2) Individual tested within 30 days
- (3) No permit.

c. Class: B states.

- (1) Originate from negative herd or certified herd, and
- (2) Individual tested within 30 days, and
- (3) Permit, and
- (4) Quarantine and retest 45 to 120 days post-movement.

d. Class: C states.

- (1) Originate from certified herd, and
- (2) Individual tested within 30 days, and
- (3) Permit, and
- (4) Quarantine and retest 45 to 120 days post-movement.

C. Scabies.

No cattle affected with or exposed to scabies shall be imported into Virginia for any purpose.

D. Feeder cattle.

Cattle intended for feeding purposes shall be qualified for entry into the Commonwealth under exactly the same conditions as cattle for dairy or breeding purposes. Steers and spayed heifers shall be exempt from any *previously stated* test requirements ~~hereinbefore set forth~~.

~~Section 5.5~~

§ 6. Sheep.

A. Scabies.

Sheep intended for feeding or breeding purposes may enter the Commonwealth of Virginia only if they originate directly from a state officially designated *scabies-free* by the United States Department of Agriculture as *scabies free*.

B. Slaughter.

Sheep imported into Virginia for immediate slaughter shall be consigned directly to a recognized stockyard or to a slaughtering establishment that is approved and

inspected by the United States Department of Agriculture or by the Virginia Department of Agriculture and Consumer Services.

~~Section 5.6~~

§ 7. Swine.

A. Brucellosis.

Swine over four months of age intended for breeding purposes shall ~~have originated~~ *originate* from an officially validated brucellosis-free herd, or from a herd in which all breeding swine over four months of age were negative to an official test for brucellosis conducted in a state or federal laboratory within 12 months prior to date of entry, or which individually ~~shall~~ have been negative to an official test for brucellosis conducted in a state or federal laboratory within 30 days prior to entry. The official health certificate accompanying ~~such~~ *these* swine shall indicate ~~such~~ *the* official herd status or ~~such~~ *the* negative test.

B. Pseudorabies.

1. No swine of any age intended for breeding or feeding purposes shall be imported into Virginia from herds in which there has been an incidence of pseudorabies within the past 12 months.

2. No swine for breeding or feeding purposes which has been exposed to pseudorabies within the past 12 months shall be imported into Virginia.

3. Swine of any age intended for breeding purposes shall be negative to a test approved by the State Veterinarian for pseudorabies conducted within 30 days prior to entry into Virginia. The official health certificate shall indicate such negative test. Breeding swine may originate from herds that have been classified as Pseudorabies Qualified Negative herds and identified as being from such origin. Pseudorabies Qualified Negative herds are those herds in which ~~25 percent~~ *25%* of the herd have exhibited negative test results in successive quarters (80-105 days) until the entire herd is tested. The test shall not be duplicated on previously tested swine.

~~Section 5.7~~

§ 8. Horses.

A. Horses may enter the Commonwealth of Virginia ~~providing~~ *provided that* they are accompanied by an official health certificate giving an accurate description of each animal ~~for entry~~, with a copy of ~~such~~ *health certificate* ~~being~~ forwarded to and received by the State Veterinarian ~~of Virginia~~ prior to the arrival of such animals at a destination in the Commonwealth of Virginia.

B. The State Veterinarian may, by proclamation,

prohibit ; or restrict under such conditions as he may prescribe, the entry of any horses into Virginia which would , in his opinion, presents a disease threat to Virginia horses or other animals. Such The proclamation shall be only for the duration of such the potential threat, and shall be officially withdrawn when it has served its purpose.

C. An Interstate Health Certificate on all horses that are imported into Virginia shall indicate that all horses covered by such certificate they have been officially tested and found negative for equine infectious anemia within the past twelve months. When horses are imported into Virginia, a copy of the Official Interstate Health Certificate shall be promptly mailed to the State Veterinarian. Horses that originate from infected premises in other states are not eligible for entry into Virginia unless a written permit is obtained from the State Veterinarian. Horses may be shipped into Virginia for research purposes or for immediate slaughter to approved slaughter establishments after first obtaining a permit from the State Veterinarian. Such horses shall be satisfactorily identified and the origin and destination clearly stated on the permit.

D. No male horse (stallion) or mare over 731 days of age, which either originates in or has passed through a country where the disease contagious equine metritis is known to exist, may enter the Commonwealth of Virginia except by special permit issued by the State Veterinarian. Those male horses or mares which are issued a special entry permit immediately will be placed under quarantine until the State Veterinarian is satisfied that they pose no danger to the Commonwealth of Virginia's equine population.

Section 5.8

§ 9. Poultry.

A. Pullorum-typhoid.

No Hatching eggs and no poultry shall not be imported into this the Commonwealth of Virginia unless such eggs or poultry originate exclusively from flocks participating in the National Poultry Improvement Plan (NPIP) or the National Turkey Improvement Plan (NTIP) (Code of Federal Regulations, Title 9, Chapter I, Parts 1 to 199) . These programs shall be under the supervision of the official state agency of NPIP or NTIP, the livestock health official, or other authorized government agency of the state of origin certifying them to be free of Pullorum-Typhoid.

B. *Mycoplasma gallisepticum*.

Hatching eggs and poultry shall not be imported into the Commonwealth of Virginia unless such eggs or poultry originate from flocks that are designated free of *Mycoplasma Gallisepticum* by the livestock health official of the state of origin. Each importer of hatching eggs or poultry into Virginia shall secure from the State

Veterinarian an approval number, after having provided evidence that the flocks of origin are free of *Mycoplasma Gallisepticum*. This approval number shall appear on shipping labels or containers of each lot shipped into Virginia.

C. Approval numbers.

1. Each shipper of hatching eggs or poultry into this state shall first secure from the State Veterinarian of Virginia an approval number from the State Veterinarian . This approval number must appear on each shipping label or on each container of hatching eggs or poultry shipped into Virginia.

2. Applications for approval numbers must be made on forms provided by the State Veterinarian of Virginia . Each application shall require the following information on each flock from which the hatching eggs or poultry originate to supply the shipper :

- The name and address of each flockowner;
- The species (i.e., chickens or turkeys) and the number of birds in each flock;
- The date of the most recent pullorum-typhoid test;
- The total number, or the percentage, of positive reactions to the most recent pullorum-typhoid test;
- The pullorum-typhoid status attained; and
- Such additional information as the State Veterinarian may require.

3. Such applications, when completed, must be forwarded to the official state agency, the state livestock health official, or other competent and recognized authority of the state of origin for verification, approval and signature ; ; and then forwarded to the State Veterinarian of Virginia for final approval. No shipment of Hatching eggs or poultry shall not be shipped into Virginia until such final approval has been granted and the approval number is received.

D. Exceptions.

Nothing in This regulation shall not apply to hatching eggs or poultry passing directly through the Commonwealth of Virginia in interstate commerce , nor to poultry imported into the Commonwealth of Virginia for immediate slaughter and consigned directly to a poultry processing establishment that is approved and inspected by the United States Department of Agriculture or by the Virginia Department of Agriculture and Consumer Services.

Section 5.9

§ 10. Goats.

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A. General.

Goats imported into the Commonwealth of Virginia for any purpose shall comply with the applicable provisions of Sections ~~5-1, 5-2, and 5-3~~ §§ 2, 3, and 4 of these rules and regulations.

B. Tuberculosis.

1. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they originate directly from a herd in which all animals were negative to a test for tuberculosis approved by the State Veterinarian within 12 months prior to entry; or

2. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they are individually tested and found to be negative to a test for tuberculosis approved by the State Veterinarian within 30 days prior to entry.

C. Brucellosis.

1. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they originate directly from a herd in which all animals were negative to a test for brucellosis approved by the State Veterinarian within 12 months prior to entry; or

2. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they are individually tested and found to be negative to a test for brucellosis approved by the State Veterinarian within 30 days prior to entry.

D. Caseous lymphadenitis.

Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they are free of clinical symptoms of caseous lymphadenitis. "Clinical symptoms", with reference to caseous lymphadenitis, is used to define abscesses of the lymph nodes, whether they are draining or not.

Section 5-10

§ 11. Dogs.

A. General.

All Dogs to be transported into the Commonwealth shall be accompanied by an official health certificate issued by an accredited veterinarian of the state of origin, certifying that the issuing veterinarian has personally examined the animal or animals described therein within ten days prior to issuance of such certificate and date of shipment; ; and that ~~such~~ *this* professional physical examination indicated that the animal or animals were in apparent good health at that time.

B. Rabies.

In addition to the requirements of paragraph B A of this section; ~~immediately above~~, the official health certificate covering any dogs to be transported or moved into the Commonwealth of Virginia shall state that they did not originate in an area under quarantine for rabies; that such dogs have not been exposed to rabies; that they have been vaccinated against rabies not ~~more~~ *more* than one year (inactivated virus) and not more than three years (attenuated virus) prior to shipment.

C. Exceptions.

1. The requirement for rabies vaccination specified ~~immediately above, under Paragraph C, subparagraph (1)~~ *in paragraph B* of this section shall not apply to puppies less than four months of age.

2. None of the provisions, requirements, or restrictions of this section shall apply to:

a. Any dog passing directly through the Commonwealth of Virginia in interstate commerce; or

b. Any dog consigned directly to a laboratory or institution authorized by law to conduct research, teaching, or clinical studies within the Commonwealth of Virginia; or

c. Any dog brought into the Commonwealth of Virginia by a person who intends to ~~make his or her residence~~ *reside* in Virginia.

Section 5-11

§ 12. Monkeys.

A. General.

Monkeys to be transported ~~or moved~~ into the Commonwealth of Virginia shall be accompanied by an Official Health Certificate issued by an accredited veterinarian of the state or origin, certifying that the issuing veterinarian personally has examined the monkey(s) ~~or monkeys described therein~~ within ten days prior to the issuance of such certificate; and that ~~such~~ *the* professional physical examination indicated that the monkey(s) ~~or monkeys~~ were in apparent good health at the time. In addition to ~~the~~ *this* general statement ~~hereinbefore required~~, a separate statement shall be included attesting to the fact that ~~such~~ *the* veterinarian has carefully examined the oral mucosa of the monkey(s) ~~or monkeys~~ and has found no evidence of disease lesions or inflammatory processes.

B. Tuberculosis.

1. Monkey (s) ~~or monkeys~~ transported ~~or moved~~ into the Commonwealth of Virginia shall successfully have passed a tuberculin test performed by an accredited veterinarian; within 30 days prior to date of

shipment. Certification of this fact, including the kind and amount of tuberculin used, the date and hour of injection, and the date and hour ~~or that~~ no response of any kind or degree was observed, shall appear upon the face of the health certificate.

2. Monkeys that have been associated with , or that originate in , a monkey colony where there have been other monkeys showing response to the tuberculin test shall not be eligible for entry into Virginia unless and until all monkeys in ~~such a~~ the group or colony shall have passed two consecutive negative tuberculin tests not less than 30 days apart.

C. Exceptions.

The provisions, requirements, or restrictions of this section shall not apply to any monkey (s) ~~or monkey (s)~~ passing directly through the Commonwealth of Virginia in interstate commerce, nor to any monkey (s) ~~or monkeys~~ consigned to a laboratory or institution authorized by law to conduct research, teaching, or clinical studies within the Commonwealth of Virginia.

Section 5-12

§ 13. Psittacine Birds.

A. Isolation.

All Psittacine birds transported ~~or moved~~ into Virginia shall be confined immediately by ~~the their~~ owner , or custodian , or by his agent, by ~~restriction to a building or other~~ an enclosure in absolute isolation from other birds, animals, and persons, except for the absolute minimum contact necessary for ~~the their~~ care of such psittacine birds in isolation. Such confinement shall continue, under the direct supervision of an accredited veterinarian specifically authorized for such purpose by the State Veterinarian, until such time as the said veterinarian shall notify the State Veterinarian, in writing, that such birds have been under continuous and uninterrupted feeding, for a period of not less than 15 consecutive days following their arrival in Virginia, with either a mash type feed or a feed containing dehulled millet seed, containing or impregnated with 0.5 milligrams of chlortetracycline per gram of feed or seed . ~~This confinement shall continue for a minimum of 15 days. During this time, the birds shall experience continuous and uninterrupted feeding with either a mash-type feed, or a feed containing dehulled millet seed, containing 0.5 milligrams of chlortetracycline per gram of feed or seed. An accredited veterinarian, specifically authorized for direct supervision of such quarantine, shall notify the State Veterinarian in writing when the birds have completed their isolation period.~~

B. Approval numbers.

1. Each shipper of psittacine birds into the Commonwealth of Virginia shall first secure an approval number from the State Veterinarian of

Virginia an approval number . ~~Such~~ This official approval number, along with the words "Virginia Department of Agriculture and Consumer Services Approved", or ~~other~~ equivalent, shall appear prominently on each shipping label or on each package or ~~other~~ container used for the transportation of such psittacine transporting these birds into Virginia.

2. Applications for approval numbers must be made on forms provided by the State Veterinarian of Virginia. Approval shall be for such time or duration as the State Veterinarian may designate. The State Veterinarian shall designate the duration of such approval . Application shall require the following information:

a. The ~~proper~~ legal name and address of each applicant. If an applicant has more than one address or premise intended as a source of psittacine birds to be shipped into Virginia, a separate application must be filed and a separate approval number secured for each such address or premise;

b. The usual or average number of birds maintained at any given time at each address or premise;

c. A statement, ~~over the signature of either~~ signed by a local or state professional livestock health official or public health authority, attesting to the fact that all psittacine birds leaving the address or premise specified on each application have been subjected to the same or fully equivalent restrictions as to isolation and treatment as are specified in Paragraph § 13.A., subsection A of § 13, subparagraph (1), of this Section for psittacine birds after arrival in Virginia ; and

d. Such Any additional information as the State Veterinarian may require.

3. Applications for approval numbers must be forwarded to the State Veterinarian of Virginia for approval. And such Approval numbers must be issued by the State Veterinarian, and received by the shipper before shipment is made into this State is made the Commonwealth of Virginia.

C. Exceptions.

1. The requirements for isolation and treatment with chlortetracycline as shown in Paragraph § 13.A., subsection A of § 13 subparagraph (1) 2: of this Section shall not apply to psittacine birds transported or moved into Virginia directly from sources which have been approved by the Virginia Department of Agriculture and Consumer Services which have been issued an official approval number ~~and such~~ . Approval number and a legend as specified in Paragraph subsection B.1. of § 13 subparagraph (1) of

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~~this Section~~ *must* appear on each shipping label or container used for shipments into Virginia . ~~provided, however, that~~ Shipments made without ~~such~~ approval, or prior to the issuance of ~~such~~ approval is ~~pending~~ , will be subjected to the same restrictions of confinement and treatment as birds from nonapproved sources.

2. ~~None of~~ The provisions of this section shall *not* apply to any psittacine birds passing directly through the Commonwealth of Virginia in interstate commerce ; nor to psittacine birds brought into the Commonwealth of Virginia by a person who intends to make his residence in Virginia ; nor to any psittacine birds consigned directly to a laboratory or institution authorized by law to conduct research, teaching, or clinical studies within the Commonwealth of Virginia.

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Virginia Department of Agriculture & Commerce
Division of Animal Health & Dairies
823 E. Main St. - Suite 600
Richmond, Virginia 23219

Send to:

M. V. Morrison, D. V. M.
Virginia Department of Agriculture and Commerce
116 Reservoir Street
Harrisonburg, Virginia 22801
Phone No. - (703) 434-3897

(Do not use this space)

Virginia Approval No. _____
Date Issued _____
Expiration Date _____
Approval By _____

APPLICATION FOR APPROVAL NUMBER TO SHIP PSITTACINE BIRDS INTO VIRGINIA

Name of Firm _____

Address _____
Street or R. F. D. City State Zip

Average number of birds maintained at any given time on the premise intended as a source of birds to be shipped into Virginia _____

Signature _____
Owner or Operator

TO BE FILLED IN BY YOUR LOCAL OR STATE PROFESSIONAL LIVESTOCK SANITARY OR PUBLIC HEALTH AUTHORITY:

This is to certify that the undersigned has inspected the above described aviary premise; that the parakeets origination upon the said premise have received a mash-type feed (or a feed containing dehulled millet seed) containing or impregnated with 0.5 milligrams of cholortetracycline per gram of feed or seed; and the birds being offered for shipment into Virginia have been subjected to such treatment for a period of not less than fifteen consecutive days prior to shipment.

Signature of Local or State Professional
Livestock or Public Health Authority _____

Date _____ Title _____

Address _____

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STATE OF VIRGINIA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
SUITE 600, WASHINGTON BUILDING, 1100 BANK STREET
RICHMOND, VIRGINIA 23219

APPLICATION AND PERMIT GOVERNING THE IMPORTATION OF POULTRY AND
HATCHING EGGS INTO THE STATE OF VIRGINIA

I (We) _____, of _____
hereby apply to the Virginia Department of Agriculture and Consumer Services for
permission to ship the following into the State of Virginia. Check the desired
square or squares.

<input type="checkbox"/> Poults under 4 months of age.	<input type="checkbox"/> Turkey Hatching Eggs.
<input type="checkbox"/> Chicks under 4 months of age.	<input type="checkbox"/> Chicken Hatching Eggs.
<input type="checkbox"/> Other domesticated fowl, such as pheasants, Bantams, exhibition birds, etc. under 5 months of age.	<input type="checkbox"/> Other domesticated fowl hatching eggs.
<input type="checkbox"/> Pullets under 16 wks. of age.	<input type="checkbox"/> Wild or rare turkeys and/or eggs.

I am familiar with the Rules and Regulations governing the importation of poultry
and hatching eggs into the State of Virginia and agree to comply with same.

(Signature of breeder or hatchery)

OFFICIAL STATE AGENCY - After completion, forward to your State NPIP Agency.
The status of the above checked products must be indicated below or permit will not
be processed.

<input type="checkbox"/> U. S. Pullorum-Typhoid Clean State	<input type="checkbox"/> U. S. M. synoviae Clean
<input type="checkbox"/> U. S. Pullorum-Typhoid Clean	<input type="checkbox"/> U. S. Sanitation Monitored
<input type="checkbox"/> U. S. M. gallisepticum Clean	<input type="checkbox"/> Other (explain)

Signature - Official State Agency

Title

NOTE: Any permit issued on the basis of this application is valid only for the items
checked above. Submit original and keep copy for your files. Be sure
application is properly endorsed.

* * * * *

Title of Regulation: VR 115-05-03. Regulation III of the Rules and Regulations Governing the Production, Processing and Sale of Ice Cream, Frozen Desserts and Similar Products.

Statutory Authority: § 3.1-562.1 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

The promulgation of amendments to Regulation III, § 18.B permits the use of dry whey, reduced minerals whey, whey protein concentrate and reduced lactose whey in the formulation of powder or dry imitation frozen desserts mixes which are exempted from certain pasteurization requirements. The previous regulations prohibited the blending of these dry ingredients with other dry ingredients to formulate these mixes unless certain pasteurization requirements are met.

The amendment to Regulation III, §§ 15.2 and 15.3 establishes a standard of identity for lowfat parevine. This will enable firms to manufacture or sell this product in the Commonwealth. Previous regulations required that this product be identified as an imitation parevine.

VR 115-05-03. Regulation III of the Rules and Regulations Governing the Production, Processing and Sale of Ice Cream, Frozen Desserts and Similar Products.

Regulation III.

STANDARDS OF IDENTITY.

§ 1. Ice cream; identity; label statement of optional ingredients.

A. Ice cream is the food prepared by freezing, while stirring, a pastuerized mix composed of one or more of the optional ingredients specified in ~~paragraph~~ subsection C. of this section, sweetened with one or more of the optional sweetening ingredients specified in ~~paragraph~~ subsection D. of this section. One or more of the optional characterizing ingredients specified in ~~paragraph~~ subsection B. of this section and one or more of the optional ingredients specified in ~~paragraph~~ paragraphs 5 to 10 of subsection D. (5) to (10) may be used to characterize the ice cream. One or more of the optional caseinates specified in ~~paragraph~~ subsection E. and one or more of the optional ingredients specified in ~~paragraph~~ subsection F. of this section may be used, subject to the conditions hereinafter set forth. The mix may be seasoned with salt, and may be homogenized. The kind and quantity of optional dairy ingredients used, as specified in ~~paragraph~~ subsection C. of this section, and the content of milk fat and nonfat milk solids therein, are such that the weights

of milkfat and total milk solids are not less than 10% and 20%, respectively, of the weight of the finished ice cream; but in no case shall the content of milk solids not fat be less than 6%, except that when one or more of the bulky optional ingredients as specified in paragraphs 3 to 8 of subsection B. (3) to (8), inclusive, of this section, are used, the weights of milkfat and total milk solids (exclusive of such fat and solids in any malted milk used) are not less than 10% and 20%, respectively, of the remainder obtained by subtracting the weight of such optional ingredients, modified as prescribed in this paragraph, from the weight of the finished ice cream; but in no case is the weight of milkfat or total milk solids less than 8% and 16%, respectively, of the weight of the finished ice cream. The optional caseinates specified in ~~paragraph~~ subsection E. of this section are not deemed to be milk solids. In calculating the reduction of milkfat and total milk solids from the use of bulky optional ingredients, chocolate and cocoa solids used shall be considered the bulky ingredients of paragraph B. (3) of subsection B of this section. In order to make allowance for additional sweetening ingredients needed when bulky ingredients are used, the weight of chocolate or cocoa solids may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight multiplied by 1.4. The finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose specified in paragraph F. (6) of subsection F of this section is used, the finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon exclusive, in both cases, of the weight of the microcrystalline cellulose. Artificial flavoring in any chocolate, cocoa, confectionary, or other ingredient used is an optional ingredient of the finished ice cream. Coloring, including artificial coloring, may be added.

B. The optional characterizing ingredients referred to in ~~paragraph~~ subsection A. of this section are:

1. Ground spice, ground vanilla beans, infusion of coffee or tea, or any natural food flavoring.

(2.) Artificial food flavoring.

(3.) Chocolate or cocoa, which may be added as such or as a suspension in sirup, and which may contain disodium phosphate or sodium citrate in such quantity that the finished ice cream contains not more than 0.2% by weight of disodium phosphate or sodium citrate. For the purposes of this section, the term "cocoa" means one or any combination of two or more of the following: Cocoa, breakfast cocoa, lowfat cocoa, and the unpulverized residual material prepared by removing part of the fat from ground cacao nibs.

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← 4. → Mature fruit or the juice of mature fruit, either of which may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be whole, shredded, or comminuted; it may be sweetened, thickened with pectin or with one or more of the ingredients named in paragraph F: ← 2 → of subsection F of this section, subject to the restriction on the total quantity of such substances in ice cream prescribed in that paragraph, and it may be acidulated with citric acid, ascorbic acid, or phosphoric acid. The fruit is prepared by the removal of pits, seeds, skins, and cores, where such removal is used in preparing that kind of fruit for consumption as fresh fruit. In the case of fruit or fruit juice from which part of the water is removed, the substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of the citrus fruits the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juice, cold-pressed citrus oil may be added in an amount not exceeding that which would have been obtained if the peel from the whole fruit had been used. For the purposes of this section the flesh of the coconut shall be considered a fruit.

← 5. → Nut meats, which may be roasted, cooked in an edible fat or oil, or preserved in sirup, and which may be salted.

← 6. → Malted milk.

← 7. → Confectionary. For the purposes of this section, the term "confectionery" means candy, cakes, cookies, and glazed fruits.

← 8. → Properly prepared and cooked cereal.

← 9. → Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the ice cream.

C. The optional dairy ingredients referred to in paragraph subsection A. of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milkfat), butter, butter oil, milk, concentrated milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form which has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, concentrated cheese whey, and dried cheese whey. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5%, has a titratable

acidity of not more than 0.17%, calculated as lactic acid. The term "milk" as used in this section means cow's milk. Any concentrated cheese whey and dried cheese whey used contribute not more than 25% by weight of the total nonfat milk solids content of the finished food. Dried cheese whey is uniformly light in color, free from brown and black scorched particles, and has an alkalinity of ash, not more than 225 milliliters 0.1N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5%, a titratable acidity of not more than 0.16%, calculated as lactic acid. Concentrated cheese whey has an alkalinity of ash, not more than 115 milliliters 0.1N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and as adjusted with water to a total solids content of 6.5%, calculated as lactic acid. The modified skim milk, when adjusted with water to a total solids content of 9%, is substantially free of lactic acid as determined by titration with 0.1N NaOH and it has a pH value in the range of 8.0 to 8.3.

D. The optional sweetening ingredients referred to in paragraph subsection A. of this section are:

← 1. → Sugar (sucrose) or sugar sirup.

← 2. → Dextrose.

← 3. → Invert sugar (in paste or sirup form).

← 4. → Corn sirup, dried corn sirup, glucose sirup, dried glucose sirup.

← 5. → Maple sirup, maple sugar.

← 6. → Honey.

← 7. → Brown sugar.

← 8. → Malt sirup, maltose sirup, malt extract.

← 9. → Dried malt sirup, dried maltose sirup, dried malt extract.

← 10. → Refiner's sirup.

← 11. → Molasses (other than black strap).

← 12. → Lactose.

← 13. → Fructose.

E. The optional caseinates referred to in paragraph subsection A. of this section which may be added to ice cream mix containing not less than 20% total milk solids are: Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali.

F. Other optional ingredients referred to in paragraph subsection A. of this section are:

¶ 1. } Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen egg yolks, and dried egg yolks. Any egg ingredient used is added to the mix before it is pasteurized. The total weight of egg yolk solids in the finished ice cream from one or a combination of two or more such ingredients is less than the minimum prescribed for frozen custard by Section 2 § 3 (1.4%).

¶ 2. } Agar-agar, algin (sodium alginate), calcium sulfate, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used (including any such ingredient and pectin added separately to the fruit ingredient) is not more than 0.5% of the weight of the finished ice cream. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

¶ 3. } Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2% of the weight of the finished ice cream. If the preparation used is one having a high proportion of monoglycerides (over 90%), it may be preblended with edible fat, but the amount of such fat does not exceed 20% by weight of the blend, and the total amount of the blend used does not exceed 0.2% of the weight of the finished ice cream.

¶ 4. } Polysorbate 65, polysorbate 80, or both may be used, with a limit on either, used separately or both used in combination, of not more than 0.1% by weight of the finished frozen dessert.

¶ 5. } Propylene glycol alginate limit of not more than 0.5% by weight of the finished frozen dessert.

¶ 6. } Microcrystalline cellulose, in a quantity not to exceed 1.5% by weight of the finished frozen dessert.

¶ 7. } When one or more of the optional thickening ingredients in subparagraph paragraphs ¶ 2 } or ¶ 5 } of this paragraph subsection are used, dioctyl sodium sulfosuccinate may be used in a quantity not in excess of 0.5% by weight of such ingredients.

§ 8. a. Sodium citrate, disodium phosphate, tetrasodium pyrophosphate, sodium hexametaphosphate, or any combination of two or more of these; but the total quantity of the solids of such ingredients (exclusive of any disodium phosphate or sodium citrate present in chocolate or cocoa, as permitted by paragraph B. ¶ 3 } of subsection B of this section) is not more than 0.2% by weight of the finished ice cream.

(ii) b. Calcium oxide, magnesium oxide, calcium

hydroxide, magnesium hydroxide, calcium carbonate, magnesium carbonate, or any combination of two or more of these; but the total quantity of the solids of such ingredients is not more than 0.04% of the weight of the finished ice cream.

G. ¶ 1. } The name of the food is "ice cream."

(2) (i) 2. a. If the food contains no artificial flavor, the name on the principal display panel or panels of the label shall be accompanied by the common or usual name of the characterizing flavor, e.g., "vanilla," in letters not less than one-half the height of the letters used in the words "ice cream."

(ii) b. If the food contains both a natural characterizing flavor and an artificial flavor simulating it, and if the natural flavor predominates, the name on the principal display panel or panels of the label shall be accompanied by the common name of the characterizing flavor, in letters not less than one-half the height of the letters used in the words "ice cream," followed by the word "flavored," in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "VANILLA flavored," or "PEACH flavored," or "VANILLA flavored STRAWBERRY flavored."

(iii) c. If the food contains both a natural characterizing flavor and an artificial flavor simulating it, and if the artificial flavor predominates, or if artificial flavor is used alone, the name on the principal display panel or panels of the label shall be accompanied by the common name of the characterizing flavor, in letters not less than one-half the height of the letters used in the words "ice cream," preceded by "artificial" or "artificially flavored," in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "artificial VANILLA," or "artificially flavored STRAWBERRY" or "artificially flavored VANILLA and artificially flavored STRAWBERRY."

(3) (i) 3. a. If the food is subject to the requirements of subparagraph (2) (ii) 2. b. of this paragraph subsection or if it contains any artificial flavor not simulating the characterizing flavor, the label also shall bear the words "artificial flavor added" or "artificial flavor added," the blank being filled with the common name of the flavor simulated by the artificial flavor in letters of the same size and prominence as the words that precede and follow it.

(ii) b. When the optional ingredient microcrystalline cellulose specified in paragraph F. ¶ 6 } of subsection F of this section is used, the label shall bear the statement "microcrystalline cellulose added" or "with microcrystalline cellulose."

(iii) c. When two or more of the optional

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ingredients specified in ~~paragraphs B. (2) paragraph 2 of subsection B and F. (6) paragraph 6 of subsection F.~~ of this section are used, such words may be combined; for example, "microcrystalline cellulose and artificial flavor added."

(iv) *d.* Wherever the name of the characterizing flavor appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words prescribed by this subparagraph shall immediately and conspicuously precede or follow such name, in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least 1 pint but less than one-half gallon, but less than 1 gallon, and not less than 12-point on packages containing 1 gallon or over; ~~Provided,~~ however, that where the characterizing flavor and a trademark or brand are presented together, other written, printed, or graphic matter that is a part of or is associated with the trademark or brand, may intervene if the required words are in such relationship with the trademark or brand as to be clearly related to the characterizing flavor: And provided further, that if the finished product contains more than one flavor of ice cream subject to the requirements of this subparagraph, the statements required by this subparagraph need appear only once in each statement of characterizing flavors present in such ice cream, e.g., "VANILLA flavored, CHOCOLATE and STRAWBERRY flavored, artificial flavors added."

(4.) If the food contains both a natural characterizing flavor and an artificial flavor simulating the characterizing flavor, any reference to the natural characterizing flavor ~~shall~~, except as otherwise authorized by this paragraph, *shall* be accompanied by a reference to the artificial flavor, displayed with substantially equal prominence, e.g., "strawberry and artificial strawberry flavor."

(5.) An artificial flavor simulating the characterizing flavor shall be deemed to predominate:

(i) *a.* In the case of vanilla beans or vanilla extract used in combination with vanillin if the amount of vanillin used is greater than 1 ounce per unit of vanilla constituent.

(ii) *b.* In the case of fruit or fruit juice used in combination with artificial fruit flavor, if the quantity of the fruit or fruit juice used is such that, in relation to the weight of the finished ice cream, the weight of the fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is less than 2% in the case of citrus ice cream, 6% in the case of

berry or cherry ice cream, 10% in the case of ice cream prepared with other fruits.

(iii) *c.* In the case of nut meats used in combination with artificial nut flavor, if the quantity of nut meats used is such that, in relation to the finished ice cream, the weight of the nut meats is less than 2%.

(iv) *d.* In the case of two or more fruit or fruit juices, or nut meats, or both, used in combination with artificial flavors simulating the natural flavors and dispersed throughout the food, if the quantity of any fruit or fruit juice or nut meat is less than one-half the applicable percentage specified in ~~subdivision (ii) subparagraphs b or (iii) c of this subparagraph paragraph~~. For example, if a combination ice cream contains less than 5% of bananas and less than 1% of almonds it would be "Artificially flavored banana-almond ice cream." However, if it contains more than 5% of bananas and more than 1% of almonds it would be "Banana-almond flavored ice cream."

(6.) If two or more flavors of ice cream are distinctively combined in one package, e.g., "Neapolitan" ice cream, the applicable provisions of this paragraph shall govern each flavor of ice cream comprising the combination.

H. Optional Ingredients other than those included in ~~paragraph subsections B., C., D. and F.~~ may be used when permitted for use in ice cream by the Federal Food and Drug Administration.

§ ~~1-1~~ § 2. Ice cream mix.

Ice cream mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of ice cream.

§ ~~2-~~ § 3. Frozen custard, french ice cream, french custard ice cream; identity; label statement of optional ingredients.

Frozen custard, french ice cream, french custard ice cream conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for ice cream by § 1, except that one or more of the optional egg ingredients permitted by § 1 F. (1) are used in such quantity that the total weight of egg yolk solids therein is not less than 1.4% of the weight of the finished frozen custard; Provided, however, that when the ingredients named in paragraphs 3 through 8 of § 1 B. (3) through (8), inclusive, are used the content of egg yolk solids may be reduced in proportion to the bulky ingredient or ingredients added, under the conditions prescribed by ~~Section 1 A- subsection A of § 1~~ for reduction in milkfat and total milk solids; but in no case is the content of egg yolk solids less than 1.12%.

~~§ 2.1~~ § 4. Frozen custard mix, french ice cream mix, and french custard ice cream mix.

Frozen custard mix, french ice cream mix, and french custard ice cream mix are the pasteurized unfrozen combinations of ingredients which when frozen while stirring will produce products conforming to the definition of frozen custard, french ice cream, and french custard ice cream.

~~§ 3.~~ § 5. Ice milk; identity; label statement of optional ingredients.

Ice milk is the food prepared from the same ingredients and in the same manner prescribed in § 1 for ice cream and complies with all the provisions of § 1, ~~(including the requirements for label statement of optional ingredients)~~, except that:

~~A.~~ 1. Its content of milkfat is not less than 2% but not more than 7%.

~~B.~~ 2. Its content of total milk solids is not less than 11%.

~~C.~~ 3. Caseinates may be added when the content of total milk solids is not less than 11%.

~~D.~~ 4. The provision for reduction in milkfat and total milk solids from the addition of bulky ingredients in ~~Section A A subsection A of § 1.~~ does not apply.

~~E.~~ 5. The quantity of food solids per gallon is not less than 1.3 pounds, exclusive of the weight of the microcrystalline cellulose.

~~F.~~ 6. When any artificial coloring is used in ice milk, directly or as a component of any other ingredient, the label shall bear the statement "artificially colored," "artificial coloring added," "with added artificial color," or "....., an artificial color added," the blank being filled in with the common or usual name of the artificial color; or in lieu thereof, in case the artificial color is a component of another ingredient, "..... artificially colored."

~~G.~~ 7. The name of the food is "ice milk."

~~H.~~ 8. If both artificial color and artificial flavoring are used, the label statements may be combined.

~~I.~~ 9. Ice milk sold at the retail level may be drawn from a dispensing freezer and a sign must be plainly marked "Ice Milk," in a manner conspicuous to the public in letters at least three ~~(3)~~ inches in height. Ice milk shall not be dispensed for sale from packages or containers unless used for milk shakes or shakes. "Dispensed" shall mean dipping or scooping from packages or containers.

See: ~~3.1~~ § 6. Ice milk mix.

Ice milk mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of ice milk.

~~§ 4.~~ § 7. Fruit sherbets; identity; label statement of optional ingredients.

A. Fruit sherbets are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in ~~paragraph subsection B.~~ of this section and one or more of the optional ingredients specified in ~~paragraph subsection C.~~ of this section, sweetened with one or more of the optional sweetening ingredients specified in ~~paragraph subsection D.~~ of this section. One or more of the optional ingredients specified in ~~paragraph subsection E.~~ of this section may be used, subject to the conditions hereinafter set forth. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The titratable acidity of the finished fruit sherbet, calculated as lactic acid, is not less than 0.35%. The mix with or without added water may be seasoned with salt, and may be homogenized. The optional dairy ingredients used and the content of milkfat and nonfat milk solids therein are such that the weight of milkfat is not less than 1% and not more than 2%, and the weight of total milk solids is not less than 2% and not more than 5% of the weight of the finished fruit sherbet. The optional caseinates specified in ~~paragraph E. (7) of subsection E~~ of this section are not deemed to be milk solids. The finished fruit sherbet weighs not less than 6 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose specified in ~~paragraph E. (11) of subsection E~~ of this section is used, the finished fruit sherbet weighs not less than 6 pounds to the gallon, exclusive of the weight of the microcrystalline cellulose.

B. The optional fruit characterizing ingredients referred to in ~~paragraph subsection A.~~ of this section are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other of the optional ingredients named in ~~paragraph E. (2) of subsection E~~ of this section, subject to the restriction on the total quantity of such substances in fruit sherbets prescribed in that ~~paragraph subsection~~. The fruit is prepared by the removal of pits, seeds, skins, and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed, or otherwise comminuted. It may be acidulated with citric acid, ascorbic acid, or phosphoric acid. In the case of concentrated fruit or fruit juices from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not

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exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that, in relation to the weight of the finished sherbet, the weight of fruit or fruit juice, as the case may be, (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content), is not less than 2% in the case of citrus sherbets, 6% in the case of berry sherbets, and 10% in the case of sherbets prepared with other fruits. For the purposes of this section, tomatoes and rhubarb are considered as kinds of fruit.

C. The optional dairy ingredients referred to in ~~paragraph~~ subsection A. of this section are: Cream, dried cream, plastic cream, (sometimes known as concentrated milkfat), butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, concentrated cheese whey, and dried cheese whey. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5% has a titratable acidity of not more than 0.17%, calculated as lactic acid. The term "milk" as used in this section means cow's milk. Dried cheese whey is uniformly light in color, free from brown and black scorched particles, and has an alkalinity of ash, not more than 225 milliliters 0.1 N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5%, a titratable acidity of not more than 0.16% calculated as lactic acid. Concentrated cheese whey has an alkalinity of ash, not more than 115 milliliters 0.1 N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5%, a titratable acidity of not more than 0.18%, calculated as lactic acid.

D. The optional sweetening ingredients referred to in ~~paragraph~~ subsection A. of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

E. Other optional ingredients referred to in ~~paragraph~~ subsection A. of this section are:

- (1.) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks; but the weight of the egg yolk solids therein is less than 0.5% of the weight of the finished fruit sherbet.
- (2.) Agar-agar, algin (sodium alginate), calcium

sulfate, egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used (including any such ingredient added separately to the fruit ingredient) is not more than 0.5% of the weight of the finished fruit sherbet. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(3.) Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2% of the weight of the finished fruit sherbet. If the preparation used is one of having a high proportion of monoglycerides (over 90%), it may be preblended with edible fat, but the amount of such fat does not exceed 20% by weight of the blend, and the total amount of the blend used does not exceed 0.2% of the weight of the finished fruit sherbet.

(4.) Polysorbate 65, polysorbate 80, or both (the limit on either used separately or both used in combination of not more than 0.1% by weight of the finished frozen dessert).

(5.) Propylene glycol alginate (limit of not more than 0.5% by weight of the finished frozen dessert).

(6.) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(7.) Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, sodium caseinate.

(8.) Any natural food flavoring.

(9.) Any artificial flavoring.

(10.) Coloring, including artificial coloring.

(11.) Microcrystalline cellulose, in a quantity not to exceed 0.5% of the weight of the finished fruit sherbet.

(12.) When one or more of the optional thickening ingredients in ~~subparagraph~~ paragraphs (2) or (5) of this ~~paragraph~~ subsection are used, dioctyl sodium sulfosuccinate may be used in a quantity not in excess of 0.5% by weight of such ingredients.

F. The name of each such fruit sherbet is "..... sherbet," the blank being filled in with the common name of the fruit or fruits from which the fruit ingredients used

are obtained. When the names of two or more fruits are included, such names shall be arranged in order of predominance, if any, by weight of the respective fruit ingredients used.

G. When the optional ingredients artificial coloring or artificial flavorings are used in fruit sherbet they shall be named on the labels as follows:

{ 1. } The label shall designate artificial coloring by the statement "artificially colored," "artificial coloring added," "with added artificial coloring," or "..... an artificial color added," the blank being filled in with the name of the artificial coloring used.

{ 2. } The label shall designate artificial flavoring by the statement "artificially flavored," "artificial flavoring added," "with added artificial flavoring," or "..... an artificial flavor added," the blank being filled in with the name of the artificial flavoring used.

{ 3. } Whenever artificial flavoring is not added as such but as a component of some other ingredient, the label shall include the statement "..... artificially flavored," the blank being filled in with the name of such other ingredient.

{ 4. } When the optional ingredient microcrystalline cellulose specified in paragraph E. { 11 } of subsection E of this section is used, the label shall bear the statement "microcrystalline cellulose added" or "with added microcrystalline cellulose." Label statements may be combined, as for example, "with added artificial flavoring and artificial coloring."

H. Where one or more of the optional ingredients artificial coloring or artificial flavoring are used and there appears on the label any representation as to the fruit or fruits in the sherbet, such representation shall be immediately and conspicuously accompanied by appropriate label statements as prescribed in ~~paragraph~~ subsection G. of this section, showing the optional ingredients used.

I. Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

See: 4-I. § 8. Fruit sherbet mix.

Fruit sherbet mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of fruit sherbet.

See: 5. § 9. Water ices; identity; label statement of optional ingredients.

A. Water ices are the foods, each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in ~~paragraph~~ subsection B. of this section, sweetened with one or more of the optional sweetening ingredients specified in ~~paragraph~~ subsection C. of this section. One or more of the optional ingredients specified in ~~paragraph~~ subsection D. of this section may be used, subject to the conditions hereinafter set forth. The titratable acidity of the finished water ice, calculated as lactic acid, is not less than 0.35%. The mix, with or without added water, may be seasoned with salt, and may be homogenized. The finished water ice weighs not less than 6 pounds to the gallon.

B. The optional fruit ingredients referred to in ~~paragraph~~ subsection A. of this section are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other of the optional ingredients named in ~~paragraph~~ { 1 } of subsection D of this section subject to the restriction on the total quantity of such substances in water ices prescribed in that paragraph. The fruit is prepared by the removal of pits, seeds, skins, and cores where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed, or otherwise comminuted. It may be acidulated with citric acid, ascorbic acid, or phosphoric acid. In the case of fruit or fruit juices from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that in relation to the weight of the finished water ice, the weight of fruit or fruit juice as the case may be, { including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content }, is not less than 2% in the case of citrus ices, 6% in the case of berry ices, and 10% in the case of ices prepared with other fruits.

C. The optional sweetening ingredients referred to in ~~paragraph~~ subsection A. of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

D. Other optional ingredients referred to in ~~paragraph~~ subsection A. of this section are:

(1)-(4) 1.a. Agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methyl cellulose, carrageenan, salts of

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carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more such ingredients used, (including any such ingredient added separately to the fruit ingredient), is not more than 0.5% of the weight of the finished water ice. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(ii) *b.* When one or more of the optional thickening ingredients in ~~subdivision (i)~~ *subparagraph a* of this ~~subparagraph~~ *paragraph* are used, dioctyl sodium sulfosuccinate may be used in a quantity not in excess of 0.5% of weight of such ingredients.

(2.) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(3.) Any natural flavoring.

(4.) Any artificial flavoring.

(5.) Coloring, including artificial coloring.

E. The name of each such water ice is "..... ice," the blank being filled with the common name of the fruit or fruits from which the fruit ingredient used is obtained. When the names of two or more fruits are included such names shall appear in the order of predominance, if any, by weight of the respective fruit ingredients used.

F. When the optional ingredients artificial coloring and artificial flavoring are used in water ices they shall be named on the labels as follows:

(1.) The label shall designate artificial flavoring by the statement "artificially flavored," "artificial flavoring added," "with added artificial flavoring," or "....., an artificial flavor added," the blank being filled in with the name of the artificial flavoring used.

Label statements may be combined, as for example, "flavoring and artificial coloring added."

G. Where one or more of the optional ingredients artificial coloring or artificial flavoring are used and there appears on the labeling any representation as to the fruit or fruits in the ice, such representation shall be immediately and conspicuously accompanied by appropriate label statements as prescribed in ~~paragraph~~ *subsection F* of this section, showing the optional ingredients used.

H. Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements set out in this section showing the optional ingredients used shall

immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

~~Sec. 5-1.~~ § 10. Water ice mix.

Water ice mix is the unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of water ice.

~~Sec. 6-~~ § 11. Nonfruit sherbets; identity; label statement of optional ingredients.

A. Nonfruit sherbets are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing ingredients specified in ~~paragraph~~ *subsection B* of this section and one or more of the optional dairy ingredients specified in ~~paragraph~~ *subsection C* of this section, sweetened with one or more of the optional sweetening ingredients specified in ~~paragraph~~ *subsection D* of this section. One or more of the optional ingredients specified in ~~paragraph~~ *subsection E* of this section may be used, subject to the conditions hereinafter set forth. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The mix, with or without added water, may be seasoned with salt and may be homogenized. The optional dairy ingredients used and the content of milkfat and nonfat milk solids therein are such that the weight of milkfat is not less than 1% and not more than 2% and their weight of total milk solids is not less than 2% and not more than 5% of the weight of the finished nonfruit sherbets. The optional caseinates specified in ~~paragraph E-~~ (7) of *subsection E* of this section are not deemed to be milk solids. The finished nonfruit sherbet weighs not less than 6 pounds to the gallon; except that when the optional ingredients microcrystalline cellulose specified in ~~paragraph E-~~ (9) of *subsection E* of this section is used, the finished nonfruit sherbet weighs not less than 6 pounds to the gallon, exclusive of the weight of the microcrystalline cellulose.

B. The optional characterizing ingredients referred to in ~~paragraph~~ *subsection A* of this section are:

(1.) Ground spice or infusion of coffee or tea.

(2.) Chocolate or cocoa, including sirup.

(3.) Confectionery.

(4.) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the sherbet.

(5.) Any natural or artificial food flavoring, (except any having a characteristic fruit or fruit-like flavor) .

C. The optional dairy ingredients referred to in ~~paragraph~~ *subsection A* of this section are: Cream, dried

cream, plastic cream (sometimes known as concentrated milkfat), butter, butter oil, milk, concentrated milk, evaporated milk, super-heated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, concentrated cheese whey, and dried cheese whey. Water may be added or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5%, has a titratable acidity of not more than 0.17% calculated as lactic acid. The term "milk" as used in this section means cow's milk. Dried cheese whey is uniformly light in color, free from brown and black scorched particles, and has an alkalinity of ash not more than 225 milliliters 0.1 N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5%, a titratable acidity of not more than 0.16% calculated as lactic acid. Concentrated cheese whey has an alkalinity of ash not more than 115 milliliters of 0.1 N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5%, a titratable acidity of not more than 0.18% calculated as lactic acid.

D. The optional sweetening ingredients referred to in ~~paragraph~~ subsection A. of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

E. Other optional ingredients referred to in ~~paragraph~~ subsection A. of this section are:

{ 1. } Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks; but the weight of egg yolk solids therein is less than 0.5% of the weight of the finished nonfruit sherbet.

{ 2. } Agar-agar, algin (sodium alginate), calcium sulfate, egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used is not more than 0.5% of the weight of the finished nonfruit sherbet. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

{ 3. } Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such

ingredients is not more than 0.2% of the weight of the finished nonfruit sherbet. If the preparation used is one having a high proportion of monoglycerides (over 90%), it may be preblended with edible fat, but the amount of such fat does not exceed 20% by weight of the blend and the total amount of the blend used does not exceed 0.2% of the weight of the finished nonfruit sherbet.

{ 4. } Polysorbate 65, polysorbate 80, or both (limit on either used separately or both used in combination of not more than 0.1% by weight of the finished frozen dessert).

{ 5. } Propylene glycol alginate (limit of not more than 0.5% by weight of the finished frozen dessert).

{ 6. } Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combinations of two or more of these in such quantity as seasons the finished food.

{ 7. } Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, sodium caseinate.

{ 8. } Coloring, including artificial color.

{ 9. } Microcrystalline cellulose, in a quantity not to exceed 0.5% of the weight of the finished nonfruit sherbet.

{ 10. } When one or more of the optional thickening ingredients in ~~subparagraph~~ { paragraph 2 } or ~~paragraph~~ { 5 } of this ~~paragraph~~ subsection are used, dioctyl sodium sulfosuccinate may be used in a quantity not in excess of 0.5% by weight of such ingredients.

F. Except as provided for in ~~paragraph~~ subsection G. of this section, the name of each such nonfruit sherbet is "..... sherbet," the blank being filled in with the common or usual name or names of the characterizing flavor or flavors; for example, "peppermint."

G. If the characterizing flavor is vanilla, the name of the food is "..... sherbet," the blank being filled in as specified by ~~Section 1-~~ subsections G. { 2 } and {5} {4} 5.a. of § 1 .

H. When the optional ingredients artificial flavoring, artificial coloring, or microcrystalline cellulose are used in nonfruit sherbet, they shall be named on the label as follows:

{ 1. } If the flavoring ingredient or ingredients consists exclusively of artificial flavoring, the label designation shall be "artificially flavored."

{ 2. } If the flavoring ingredients are a combination of natural and artificial flavors, the label designation

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shall be "artificial and natural flavoring added."

← 3. → The label shall designate artificial coloring by the statement "artificially colored," "artificial coloring added," "with added artificial coloring," or "....., an artificial color added," the blank being filled in with the name of the artificial coloring used.

← 4. → When the optional ingredient microcrystalline cellulose is used, the label shall bear the statement "microcrystalline cellulose added" or "with added microcrystalline cellulose."

I. Wherever there appears on the label any representation as to the characterizing flavor or flavors of the food and such flavor or flavors consist in whole or in part of artificial flavoring, the statement required by ~~paragraph H.~~ ← 1 → or ~~paragraph~~ ← 2 → of ~~subsection H~~ of this section, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter, ← except that the word "sherbet" may intervene →, in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least 1 pint but less than one-half gallon, not less than 10-point on packages containing at least one-half gallon but less than 1 gallon, and not less than 12-point on packages containing 1 gallon or over.

J. Except as specified in ~~paragraph subsection I.~~ of this section, the statements required by ~~paragraph subsection H.~~ of this section shall be set forth on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

See: 6-1: § 12. Nonfruit sherbet mix.

Nonfruit sherbet mix is the unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of nonfruit sherbet.

See: 7: § 13. Nonfruit water ices; identity; label statement of optional ingredients.

A. Nonfruit water ices are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing ingredients specified in ~~paragraph subsection B.~~ of this section, sweetened with one or more of the optional sweetening ingredients specified in ~~paragraph subsection C.~~ of this section. One or more of the optional ingredients specified in paragraph D. of this section may be used, subject to the conditions hereinafter set forth. The mix, with or without added water, may be seasoned with salt and may be homogenized. The finished nonfruit water ice weighs not less than 6 pounds to the gallon.

B. The optional characterizing ingredients referred to in ~~paragraph subsection A.~~ of this section are:

← 1. → Ground spice or infusion of coffee or tea.

← 2. → Chocolate or cocoa, including sirup.

← 3. → Confectionery.

← 4. → Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the water ice.

← 5. → Any natural or artificial food flavoring, ← except any having a characteristic fruit or fruit-like flavor →.

C. The optional sweetening ingredients referred to in ~~paragraph subsection A.~~ of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

D. Other optional ingredients referred to in ~~paragraph subsection A.~~ of this section are:

(†) (†) *I.a.* Agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more such ingredients used, is not more than 0.5% of the weight of the finished nonfruit water ice. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(‡) *b.* When one or more of the optional thickening ingredients in ~~subdivision (†) subparagraph a.~~ of this ~~subparagraph paragraph~~ are used, dioctyl sodium sulfosuccinate may be used in a quantity not in excess of 0.5% by weight of such ingredients.

← 2. → Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

← 3. → Coloring, including artificial coloring.

E. Except as provided for in ~~paragraph subsection F.~~ of this section, the name of each such nonfruit water ice is "..... ice," the blank being filled in with the common or usual name or names of the characterizing flavor or flavors; for example, "peppermint."

F. If the characterizing flavor used is vanilla, the name of the food is "..... ice," the blank being filled in as

specified by ~~Section 1. G.~~ ~~(paragraphs 2)~~ and ~~(5)~~ ~~(i)~~ 5.a. of subsection G. of § 1 .

G. When the optional ingredients artificial flavoring or artificial coloring are used in nonfruit water ice, they shall be named on the label as follows:

{ 1. } If the flavoring ingredient or ingredients consist exclusively of artificial flavoring, the label designation shall be "artificially flavored."

{ 2. } If the flavoring ingredients used are a combination of natural and artificial flavors, the label designation shall be "artificial and natural flavoring added."

{ 3. } The label shall designate artificial coloring by the statement "artificially colored," "artificial coloring added," "with added artificial coloring," or "....., an artificial color added," the blank being filled in with the name of the artificial coloring used.

H. Wherever there appears on the label any representation as to the characterizing flavor or flavors of the food and such flavor or flavors consist in whole or in part of artificial flavoring, the statement required by paragraph G. { 1 } or paragraph { 2 } of subsection G. of this section, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter, { except that the word "ice" may intervene }, in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least 1 pint but less than one-half gallon, not less than 10-point on packages containing at least one-half gallon but less than 1 gallon and not less than 12-point on packages containing 1 gallon or over.

I. Except as specified in ~~paragraph~~ subsection H. of this section, the statements required by ~~paragraph~~ subsection G. of this section shall be set forth on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

See: ~~7.1.~~ § 14. Nonfruit Water Ice Mix.

Nonfruit water ice mix is the unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of nonfruit water ice.

See: 8. § 15. Artificially sweetened ice cream or frozen dietary dairy dessert; identity; label statement of optional ingredients.

Artificially sweetened ice cream or frozen dietary dairy dessert means ice cream manufactured, prepared, or

processed for consumption by persons who wish to restrict their intake of ordinary sweetening ingredients and shall conform to the definition and standard of identity prescribed for ice cream in § 1 of this ~~part~~ regulation, except that it shall be sweetened with an artificial sweetening agent and contains edible carbohydrates other than sugar. The artificial sweetening agent and the edible carbohydrates ~~must~~ shall be approved by the Federal Food and Drug Administration and no sugars other than those naturally present in the milk solids or flavoring agent shall be added thereto.

A. The manufacturer shall place the product in packages or containers which shall be conspicuously labeled either "artificially sweetened" immediately preceding the words "ice cream" in similar type at least one-half the size of the type used for the words "ice cream" and on the same contrasting background, or "frozen dietary dairy dessert."

B. The label shall also contain a statement in terms of percentage by weight of protein, fat, and carbohydrates, the total number of calories per ounce, the number of calories contributed by carbohydrates and any carbohydrates other than lactose, and the name of each ingredient entering into the composition other than flavors.

C. The following statement shall appear conspicuously following the declaration of the artificial sweetener used, such as "Contains% saccharine, (or sodium salt of saccharine, as the case may be), a non-nutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets." The blank is to be filled in with the percent by weight of saccharine or other artificial sweetener in said product.

D. The product shall not be sold in any manner other than in sealed or unbroken packages or containers from one or more separate compartments of a refrigerated container or cabinet.

See: ~~8.1.~~ § 16. Artificially sweetened ice cream mix or frozen dietary dairy dessert mix.

Artificially sweetened ice cream mix or frozen dietary dairy dessert mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of artificially sweetened ice cream or frozen dietary dairy dessert.

See: 9. § 17. Artificially sweetened ice milk; identity; label statement of optional ingredients.

Artificially sweetened ice milk means ice milk manufactured, prepared, or processed for consumption by persons who wish to restrict their intake of ordinary sweetening ingredients and shall conform to the definition and standard of identity prescribed for ice milk in ~~Section 3~~ § 5. of this ~~part~~ regulation, except that it shall be sweetened with an artificial sweetening agent and contains edible carbohydrates other than sugar. The artificial sweetening agent and the edible carbohydrates must be

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approved by the Federal Food and Drug Administration and no sugars other than those naturally present in the milk solids or flavoring agent shall be added thereto.

A. The manufacturer shall place the product in packages or containers which shall be conspicuously labeled "artificially sweetened" immediately preceding the words "ice milk" in similar type at least one-half the size of the type used for the words "ice milk" and on the same contrasting background.

B. The label shall also contain a statement in terms of percentage by weight of protein, fat, and carbohydrates, the total number of calories per ounce, the number of calories contributed by carbohydrates and any carbohydrates other than lactose, and the name of each ingredient entering into the composition other than flavors.

C. The following statement shall appear conspicuously following the declaration of the artificial sweetener used, such as "contains% saccharine, (or sodium salt of saccharine, or other artificial sweetener, as the case may be), a nonnutritive artificial sweetener which should only be used by persons who must restrict their intake of ordinary sweets." The blank is to be filled in with the percent by weight of saccharine or other artificial sweetener in said product.

D. The product shall not be sold in any manner other than in sealed or unbroken packages or containers from one or more separate compartments of a refrigerated container or cabinet.

See: ~~9-1~~ § 18. Artificially sweetened ice milk mix.

Artificially sweetened ice milk mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of artificially sweetened ice milk.

See: ~~10~~ § 19. Frozen yogurt; identity; label statement of optional ingredients.

Frozen yogurt is a food which is prepared by freezing while stirring a pasteurized mix, containing one or more of the following ingredients, whole milk, partially defatted milk, skim milk, other milk products, and with or without fruits, nuts, flavoring materials, sweeteners, stabilizers, emulsifiers, and any other safe and suitable approved ingredient which is cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus* provided however, fruits, nuts, or other flavoring materials may be added before or after the mix is pasteurized and cultured. The standard plate count requirement for frozen desserts shall apply only to the mix prior to culturing. The finished frozen yogurt shall weigh not less than 5 pounds per gallon. The name of the product is "frozen yogurt." The label on a package of frozen yogurt, in addition to other required information, shall include a complete list of all ingredients in descending order or predominance; for the purposes of

this regulation the strains of bacteria may be collectively referred to as yogurt culture. (Amended 9-28-76.)

See: ~~10-1~~ § 20. Frozen yogurt mix.

Frozen yogurt mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of frozen yogurt.

See: ~~10-2~~ § 21. Shipping frozen yogurt mix.

Frozen yogurt mix may be shipped in a frozen state to plants and frozen desserts retail establishments. (Amended 9-28-76.)

See: ~~11~~ § 22. Quiescently frozen confection; identity; label statement of optional ingredients.

Quiescently frozen confection means the frozen, sweetened, flavored product in the manufacture of which freezing has not been accompanied by stirring or agitation, { generally known as quiescent freezing }. This confection may be acidulated with harmless organic acid, may contain milk products, may be made with or without added harmless natural or artificial flavoring, with or without added harmless coloring. The finished product may contain not more than one-half of 1% by weight of stabilizing agents. The finished product shall contain not less than 17% by weight of total food solids. This confection must be manufactured in the form of servings, individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. In the production of this quiescently frozen confection no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of 10%.

See: ~~11-1~~ § 23. Quiescently frozen confection mix.

Quiescently frozen confection mix is the unfrozen combination of ingredients which when frozen will produce a product conforming to the definition of quiescently frozen confection.

See: ~~12~~ § 24. Quiescently frozen dairy confection; identity; label statement of optional ingredients.

Quiescently frozen dairy confection means the frozen product made from water, milk products and sweetening agents, with added harmless coloring, with or without added stabilizing and emulsifying ingredients, and in the manufacture of which freezing has not been accompanied by stirring or agitation, { generally known as quiescent freezing }. It contains not less than 13% by weight of total milk solids, not less than 33% by weight of total food solids, not more than one-half of 1% by weight of stabilizing agents, not more than one-fifth of 1% by weight of monoglycerides or diglycerides or a combination of both, not more than one-tenth of 1% by weight of

polysorbate 65 or polysorbate 80 or a combination of both. This confection must be manufactured in the form of servings individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. In the production of this quiescently frozen dairy confection no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of 10%.

~~See. 12.1.~~ § 25. Quiescently frozen dairy confection mix.

Quiescently frozen dairy confection mix is the pasteurized unfrozen combination of ingredients which when frozen will produce a product conforming to the definition of quiescently frozen dairy confection.

~~See. 13.~~ § 26. Manufactured dessert mix; identity; label statement of optional ingredients.

Manufactured desserts mix, whipped cream confection, bisque tortoni means a pasteurized frozen dessert made with milk products, sweetening agents, flavoring agents, stabilizing agents, emulsifying agents, with or without harmless coloring. It contains not less than 18% by weight of milkfat, not more than one-half of 1% by weight of stabilizing agents, not more than two-tenths of 1% by weight of monoglycerides or diglycerides of fat forming fatty acids or a combination of both, not more than one-tenth of 1% by weight of polyoxyethylene (20) sorbitan tristearate or polysorbate eighty (polyoxyethelene (20) sorbitan monooleate) or a combination of both, not more than 12% of milk solids not fat, and may be packaged with harmless gas causing it to fluff upon ejection from the package or container.

~~See. 14.~~ § 27. Mellorine; identity; label statement of ingredients.

A. Mellorine conforms to the definition and standard of identity, and is subject to the requirements for optional ingredients, prescribed for ice cream by § 1, except that in place of optional dairy ingredients containing butterfat as permitted pursuant to ~~Section 1, subsection C. of § 1~~, edible fats or oils other than milkfat are used, and provided further that the weight of edible fats or oils other than milkfat, is not less than 10% of the weight of the finished mellorine and the weight of the milk solids not fat is not less than 10% of the weight of the finished mellorine, except that when one or more of the bulky optional ingredients as specified in ~~Section 1. B. (3), (4), (5), (6), (7), or (8) paragraphs 3, 4, 5, 6, 7, or 8 of subsection B of § 1~~ are used, the weight of the edible fats or oils other than milkfat and the combined weight of edible fats or oils other than milkfat and milk solids not fat, { exclusive of any fat and milk solids not fat in any malted milk used } , are not less than 10% and 20% respectively, of the remainder obtained by subtracting the weight of such optional ingredients as provided in ~~Section 1. subsection A. of § 1~~, from the weight of the finished mellorine, but in no case is the weight of edible fats or

oils other than milkfat, or the combined weight of edible fats and oils other than milkfat and milk solids not fat to be less than 8% and 16% respectively of the weight of the finished mellorine, and that whenever provisions appear in ~~said § 1~~ referring to milkfat, it shall be understood to be edible fats or oils other than milkfat in the case of mellorine.

B. The name of the product is "mellorine."

C. When any artificial color is used in mellorine, directly or as a component of any other ingredient, the label shall bear the statement, "artificially colored," "artificial coloring added," "with added artificial color," or "....., an artificial color added," the blank to be filled in with the common or usual name of the artificial color; or in lieu thereof, in case the artificial color is a component of another ingredient, "....., artificially colored."

D. If both artificial color and artificial flavoring are used, the label statements may be combined.

E. Mellorine shall be manufactured in the form of servings individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original plant sealed container.

F. The label on a package of mellorine shall conform to the provisions of ~~Section 1. subsection G. of § 1~~ and in addition to other required information shall include the name "Mellorine" in a conspicuous manner. Mellorine may not be designated by the use of the word "cream" or its phonetic equivalent.

~~See. 14.1.~~ § 28. Mellorine mix.

Mellorine mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of mellorine.

~~See. 15.~~ § 29. Parevine.

Parevine is the food prepared by freezing, while stirring, a pasteurized mix composed of: (i) one or more edible vegetable fats; (ii) any optional sweetening ingredient except lactose and (iii) protein or any other source of carbohydrate food solids. Parevine shall not contain any milk or meat products nor any derivatives of such products.

A. Its fat content shall not be less than 10%, except that when bulky optional characterizing ingredients are used, the fat content may be reduced, as a result of the addition of such ingredients, but shall in no case be less than 8%.

B. Its content of food solids shall not be less than 1.3 pounds per gallon of the finished product.

C. The weight of the finished product shall not be less than 4.5 pounds per gallon.

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Parevine shall be offered in the form of servings individually packaged, bagged or wrapped and properly labeled and purveyed to the consumer in original plant sealed container. When any artificial color or flavor is used in parevine directly or indirectly as a component of any other ingredient, then it must be declared in the label statement, "Artificial color and flavor added," or words of like import.

See: ~~15.1~~. § 30. Parevine mix.

Parevine mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of parevine.

§ 31. Lowfat parevine.

Lowfat parevine is the food prepared by freezing, while stirring, a pasteurized mix composed of: (i) one or more edible vegetable fats; (ii) any optional sweetening ingredient except lactose; and (iii) protein or any other source of carbohydrate food solids. Lowfat parevine shall not contain any milk or meat products nor any derivatives of such products.

A. Its fat content shall not be more than 6%.

B. Its content of food solids shall not be less than 1.3 pounds per gallon of the finished product.

C. The weight of the finished product shall not be less than 4.5 pounds per gallon.

Lowfat parevine shall be offered in the form of servings individually packaged, bagged or wrapped and properly labeled and purveyed to the consumer in original plant sealed container. When any artificial color or flavor is used in lowfat parevine directly or indirectly as a component of any other ingredient, then it must be declared in the label statement, "Artificial color and flavor added," or words of like import.

§ 32. Lowfat Parevine Mix.

Lowfat parevine mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of lowfat parevine.

See: ~~16~~. § 33. Freezer made milk shake; identity; label statement of optional ingredients.

A. Freezer made milk shake means a pure, clean, wholesome semi-viscous drink prepared by stirring while freezing in a dispensing freezer a pasteurized mix obtained from an approved source consisting of milkfat, milk solids not fat, water, optional sweetening ingredients, with or without egg or egg products, with harmless flavoring, with or without harmless coloring and with or without approved stabilizer or approved emulsifier. It shall contain not less than three and one-fourth percent milkfat. It shall contain

not less than 10% milk solids not fat, it shall contain not more than one-half percent by weight of stabilizer and not more than one-fifth of 1% of emulsifier. Freezer made milk shakes may only be sold or served from a dispensing freezer and may not be sold hard frozen.

B. Other freezer made shakes including jumbo shake, thick shake, T. V. shake, or any coined or trade name containing the word "shake" shall meet the requirements of ~~Section 16 A~~, subsection A of this section, except that the minimum percent of milkfat may be less than three and one-fourth percent.

C. "Shakes" not meeting the requirement for "milk" shakes shall not be advertised, sold or served as a milk shake.

See: ~~16.1~~. § 34. Freezer made milk shake mix.

Freezer made milk shake mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of freezer made milk shake.

See: ~~16.2~~. § 35. Freezer made shake mix.

Freezer made shake mix is the pasteurized unfrozen combination of ingredients which when frozen while stirring will produce a product conforming to the definition of freezer made shake.

See: ~~17~~. § 36. Frozen desserts; identity.

A. Frozen desserts mean any or all of the following: Ice Cream, Frozen Custard, French Ice Cream, French Custard Ice Cream, Ice Milk, Fruit Sherbets, Water Ices, Non-Fruit Sherbets, Non-Fruit Water Ices, Artificially Sweetened Ice Cream or Frozen Dietary Dairy Dessert, Artificially Sweetened Ice Milk, Frozen Yogurt, Quiescently Frozen Confection, Quiescently Frozen Dairy Confection, Mellorine, Parevine, *Lowfat Parevine*, Freezer Made Milk Shakes and Freezer Made Shakes. Frozen desserts shall also mean the mix used in the freezing of the preceding list of frozen desserts. Powder or dry frozen dessert mixes are not required to be repasteurized when reconstituted with water as described in Regulation XI, Section 3A. (Amended 12-12-78.)

See: ~~18~~. § 37. Imitation Frozen Desserts ; ; Identity.

A. Imitation frozen dessert is any frozen substance, mixture or compound regardless of the name under which it is represented, which is made in imitation or semblance of ice cream, or is prepared or frozen as ice cream is customarily prepared or frozen, and which is not Ice Cream; Frozen Custard; French Ice Cream, and French Custard Ice Cream; Ice Milk; Fruit Sherbets, Water Ices; Non-Fruit Sherbets; Non-Fruit Water Ices; Artificially Sweetened Ice Cream or Frozen Dietary Dessert; Artificially Sweetened Ice Milk; Frozen Yogurt; Quiescently Frozen Confection; Quiescently Frozen Dairy Confection;

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Mellorine; Parevine; *Lowfat Parevine*; Freezer Made Milk Shakes; and Freezer Made Shakes, as established by definitions and standards of identity in Regulation III *this regulation*.

B. Powder or dry imitation frozen desserts mixes which contain no milk or other dairy product ingredients but contain *dry whey, reduced minerals whey, whey protein concentrate, reduced lactose whey and/or* optional caseinates specified in ~~Sec. 1-E~~ *subsection E of § 1* of this regulation are exempted from the pasteurization requirements of Regulation XII. The *wheys*, caseinates or egg ingredients used in the formulation of these mixes shall have been pasteurized or subjected to any other method of process demonstrated to be equally efficient. Powder or dry imitation frozen dessert mixes shall contain no ingredients except those which are generally recognized as safe by the Federal Food and Drug Administration or ~~these those~~ which are permitted by these regulations in a frozen dessert. (Amended 12-12-78.)

C. Imitation frozen desserts sold at the retail level may be drawn from a dispensing freezer and a sign must be plainly marked "Imitation" the blank being filled in with the name of the frozen dessert imitated, in a manner conspicuous to the public in letters at least three (3) inches in height. Imitation frozen desserts shall not be dispensed for sale from packages or containers. "Dispensed" shall mean dipping or scooping from packages or containers. (Amended 12-12-78.)

Sec. 19. § 38. Imitation frozen desserts; prohibitions, execution, filings confidential.

A. No imitation frozen desserts shall be manufactured, sold, advertised, offered or exposed for sale in this State *Commonwealth* unless 30 days prior to such manufacture, advertisement, offer, exposure for sale or sale, the manufacture, offeror or dealer shall file with the Commissioner such intent. The filing herein required shall be on forms supplied by the Commissioner and shall include such information as the name under which the imitation frozen dessert is to be advertised or offered for sale, ingredients including any optional ingredients, proportion of ingredients expressed in a percentage, method of preparation, and any other relevant information the Commissioner may require.

B. Information filed pursuant to this section shall be confidential and used solely for administration and enforcement of these regulations.

C. Imitation frozen desserts shall be considered as frozen desserts in the enforcement of Regulations IV through XIV. (Amended 9-26-72.)

* * * * *

The Department of Agriculture and Consumer Services proposes to REPEAL the six regulations listed below:

Title of Regulations: Limited General Quarantine Order No. 1980-1.

Statutory Authority: §§ 3.1-726 and 3.1-734 of the Code of Virginia.

Effective Date: December 11, 1985.

Summary:

This regulation required specified testing to qualify stallions for quarantine release when originating from countries where contagious equine metritis has occurred. The regulation is being repealed because its provisions have been incorporated into VR 115-02-12, Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals and Birds in Virginia.

Title of Regulations: Limited General Quarantine Order No. 1981-1.

Statutory Authority: §§ 3.1-726 and 3.1-727 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation prescribed the testing of adult breeding cattle for brucellosis upon change of ownership of these animals. It is being repealed because its provisions have been incorporated into VR 115-02-03, Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Cattle in Virginia.

Title of Regulations: Livestock Market Brucellosis Testing Order No. 1981-2.

Statutory Authority: § 3.1-737 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation prescribed testing at all livestock markets for brucellosis when breeding and replacement cattle are returned to the farm. It is being repealed because its provisions have been incorporated into VR 115-02-04, Rules and Regulations Governing the Operations of Livestock Markets.

Title of Regulations: Limited General Quarantine Order No. 1981-3.

Statutory Authority: § 3.1-734 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

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This regulation required specified testing to qualify stallions and mares for quarantine release when originating from countries where contagious equine metritis has occurred. It is being repealed because its provisions have been incorporated into VR 115-02-12, Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals and Birds in Virginia.

Title of Regulations: Limited Quarantine Order No. 1983-1.

Statutory Authority: §§ 3.1-723 through 3.1-741 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation prohibited the importation into Virginia of hatching eggs and poultry from other than designated disease-free areas. It is being repealed because its provisions have been incorporated into VR 115-02-12, Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals and Birds in Virginia.

Title of Regulations: AHD 7, Artificial Insemination.

Statutory Authority: §§ 3.1-723 through 3.1-741.1 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation prescribed controls on health status of bull studs used for artificial insemination; it also specifies qualifications of individuals certified as inseminators. The regulation is being repealed because the livestock industry has developed satisfactory standards that replace those of the regulation.

proceed in the absence of an appearance by an interested party. Section 1.5 clarifies that a person who wishes to complain against the continuation of a license should put the grounds for such complaint in writing. Section 1.6 clarifies the language with no substantive change. Section 1.7E makes it clear that the hearing officer has authority to immediately implement his decision regarding either the issuance of a license or the surrender of a license. Section 1.17 adds the word "certified" to ensure that a transcript is certified by the hearing reporter.

Section 1.15 provides another means for the board to expedite the hearing process and to settle cases which are not of such a serious nature that a hearing must be held in order to protect the public interest.

Section 2.1 clarifies that an interested party may waive further hearing proceedings when he submits written exceptions to the hearing officer's decision and to have the board decide on those written exceptions. If an interested party fails to appear at the hearing the board may proceed in his absence to render a decision. Section 2.11 clarifies that the request for a rehearing or reconsideration should contain a full and clear statement of the facts pertaining to the request, the grounds therefor, and a statement of the relief desired.

Part III, Wine and Beer Franchise Acts, incorporates the provisions of the Wine Franchise Act which were adopted by the legislature at its 1985 session.

Part IV, Telephone hearings, provides for hearings to be conducted by telephone, which will save considerable time and expenses to the board and parties to the hearing.

VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations.

PART I. HEARINGS BEFORE HEARING OFFICERS.

§ 1.1. Appearance.

A. Any interested party who would be aggrieved by a decision of the ~~Commission~~ board upon any application or in a disciplinary proceeding may appear and be heard in person, or by a duly authorized representative, and produce under oath evidence relevant and material to the matters in issue. Upon due notice a hearing may be conducted by telephone as provided in Part IV.

B. The interested parties will be expected to appear or be represented at the place and on the date of hearing or on the dates to which the hearing may be continued.

C. If an interested party fails to appear at a hearing, the hearing officer may proceed in his absence and

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Title of Regulations: VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and its Hearing Officers and the Adoption or Amendment of Regulations.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: December 12, 1985

Summary:

Six sections of these procedural rules have been amended. The amendments add a new § 1.15 entitled "Consent Settlement". The amendment to § 1.1 adds language to clarify that the hearing officer may

render a decision.

§ 1.5. Complaints.

If substantial cause be shown the Commission, in its discretion, may arrange a hearing for persons who desire to register complaints against the continuation of a license and who desire to be heard in connection therewith.

The board in its discretion and for good cause shown may arrange a hearing upon the complaint of any aggrieved party(s) against the continuation of a license. The complaint shall be in writing directed to the Director of Regulatory Division, setting forth the name and post office address of the person(s) against whom the complaint is filed, together with a concise statement of all the facts necessary to an understanding of the grievance and a statement of the relief desired.

§ 1.6. Continuances.

Continuances Motions to continue a hearing will be granted as in actions at law. Request for continuances would be addressed to the Director, Division of Hearings, or the hearing officer who will preside over the hearing.

§ 1.7. Decisions.

A. Initial decisions. The decision of the hearing officer shall be deemed the initial decision, shall be a part of the record, and shall include:

1. A statement of the hearing officer's findings of fact and conclusions, as well as the reasons or bases therefor, upon all the material issues of fact, law or discretion presented on the record, and
2. The appropriate rule, order, sanction, relief or denial thereof as to each such issue.

B. Summary decisions. At the conclusion of a hearing, the hearing officer, in his discretion, may announce the initial decision to the interested parties.

C. Notice. At the conclusion of any hearing, the hearing officer shall advise interested parties that the initial decision will be reduced to writing and that notice of such decision, along with notice of the right to appeal to the Commission board, will be mailed to them or their representative and filed with the Commission board in due course. (See Part II § 2-1. for Appeals).

D. Prompt filing. The initial decision shall be reduced to writing, mailed to interested parties, and filed with the Commission board as promptly as possible after the conclusion of the hearing or the expiration of the time allowed for the receipt of additional evidence.

E. Request for early or immediate decision. Where the initial decision is deemed to be acceptable, an interested party may file, either orally before the hearing officer or

in writing, a waiver of his right of appeal to the Commission board and request early or immediate implementation of the initial decision. The Commission board or hearing officer may grant the request for early or immediate implementation of the decision by causing issuance or surrender of the license and prompt entry of the appropriate order.

F. Timely review. The Commission board shall review the initial decision and may render a proposed decision, which may adopt, modify or reject the initial decision unless immediate implementation is ordered. In any event, the Commission board shall issue notice of any proposed decision, along with notice of right to appeal, within the time provided for appeals as stated in Part II, § 2-1.

§ 1.15. Consent settlement.

A. Generally. Disciplinary cases may be resolved by consent settlement if the nature of the proceeding and public interest permit. In appropriate cases, the chief hearing officer will extend an offer of consent settlement, conditioned upon approval by the board, to the licensee. The chief hearing officer is precluded from presiding over any case in which an offer of consent settlement has been extended.

B. Who may accept. The licensee or his attorney may accept an offer of consent settlement. If the licensee is a corporation, only an attorney or an officer, director, or majority stockholder of the corporation may accept an offer of consent settlement. Settlement shall be conditioned upon approval by the board.

C. How to accept. The licensee must return the properly executed consent order along with the payment in full of any monetary penalty within 15 calendar days from the date of the mailing by the board. Failure to respond within the time period will result in a withdrawal of the offer by the agency and a formal hearing will be held on the date specified in the Notice of Hearing.

D. Effect of acceptance. Upon approval by the board, acceptance of the consent settlement offer shall constitute an admission of the alleged violation of the A.B.C. laws or regulations, and will result in a waiver of the right to a formal hearing and the right to appeal or otherwise contest the charges. The offer of consent settlement is not negotiable; however, the licensee is not precluded from submitting an offer in compromise under § 16 of this part.

E. Approval by the board. The board [may shall] review all proposed settlements. Only after approval by the board shall a settlement be deemed final. The board may reject any proposed settlement which is contrary to law or policy or which, in its sole discretion, is not appropriate.

F. Record. Unaccepted offers of consent settlement will become a part of the record only after completion of the hearing process.

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4-16 § 1.17. Record.

A. The *certified* transcript of testimony, argument and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record of the initial decision.

B. Upon due application made to the Director, Division of Hearings, copies of the record of a hearing shall be made available to parties entitled thereto at a fee established by the ~~Commission~~ board.

PART II. HEARINGS BEFORE THE BOARD.

§ 2.1. Appeals.

A. An interested party may appeal to the ~~Commission~~ board an adverse initial decision, including the findings of fact and the conclusions, of a hearing officer or a proposed decision, or any portion thereof, of the ~~Commission~~ board provided a request therefor in writing is received within ~~ten~~ 10 days after the date of mailing of the initial decision or the proposed decision, whichever is later.

B. At his option, an interested party may submit written exceptions to the initial or proposed decision within the ~~ten~~ { 10 } day period and waive further hearing proceedings .

C. If an interested party fails to appear at a hearing, the board may proceed in his absence and render a decision.

§ 2.11. Rehearings and reconsideration.

The ~~Commission~~ board may, in its discretion, for good cause shown, grant a rehearing or reconsideration on the written ~~motion~~ petition of an interested party addressed to the Secretary of the ~~Commission~~ Board and received within ~~thirty~~ { 30 } days after the date of the final decision of the ~~Commission~~ board. The petition shall contain a full and clear statement of the facts pertaining to the grievance, the grounds in support thereof, and a statement of the relief desired . The ~~Commission~~ board may grant such at any time on its own initiative for good cause shown.

PART III. WINE AND BEER FRANCHISE ACTS.

§ 3.1. Complaint.

Complaints shall be referred in writing to the secretary to the ~~Commission~~ board . The secretary's office, in consultation with the deputy for regulation, will determine if reasonable cause exists to believe a violation of Section 4-118.7 or 4-118.8 the Wine or Beer Franchise Acts, Chapters 2.1 and 2.2 of Title 4, of the Code of Virginia, has occurred and, if so, a hearing on the complaint will

be scheduled in due course. If no reasonable cause is found to exist, the complainant will be informed of the reason for that decision and given the opportunity to request a hearing as provided by statute. In addition to the foregoing, if the Commission has reasonable cause to believe that any licensee has committed a violation in bad faith the Beer and Franchise Act (Chapter 2.1 of Title 4, Virginia Code) it may commence a proceeding to suspend or revoke such license, pursuant to Section 4-37(A)(1)(b), of the Code of Virginia.

§ 3.2. Hearings.

Hearings will be conducted in accordance with the provisions of Part I of these rules. Further, the ~~Commission~~ board and the hearing officers designated by it may require an accounting to be submitted by each party in determining an award of costs and attorneys' fees.

§ 3.3. Appeals.

The decision of the hearing officer may be appealed to the ~~Commission~~ board as provided in Part II § 2-1 of these rules. Appeals shall be conducted in accordance with the provisions of Part II of these rules.

§ 3.4. Hearings on notification of price increases.

Upon receipt from a winery , brewery or wine or beer importer of a request for notice of a price increase less than 30 days in advance, a hearing will be scheduled before the ~~Commission~~ board , not a hearing officer, as soon as practicable with five days' notice to all parties which includes at a minimum all the wholesalers selling the winery or brewery's product. There will no continuances granted and the ~~Commission~~ board must rule within 24 hours of the hearing.

PART IV. TELEPHONE HEARINGS.

§ 4.1. Applicability.

The board and its hearing officers may conduct hearings by telephone only when the applicant/licensee expressly waives the in-person hearing. The board will determine whether or not certain hearings might practically be conducted by telephone. The provisions of Part I, shall apply to Part IV where applicable.

§ 4.2. Appearance.

The interested parties will be expected to be available by telephone at the time set for the hearing and may produce under oath, evidence relevant and material to the matters in issue. The board will arrange for telephone conference calls at its expense.

§ 4.3. Argument.

Oral or written argument may be submitted to and

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limited by the hearing officer. Oral argument is to be included in the stenographic report of the hearing. Written argument, if any, must be submitted to the hearing officer and other interested parties in advance of the hearing.

§ 4.4. Documentary evidence.

Documentary evidence, which an interested party desires to be considered by the hearing officer, must be submitted to the hearing officer and other interested parties in advance of the hearing.

§ 4.5. Hearings.

A. Telephone hearings will usually originate from the central office of the board in Richmond, Virginia, but may originate from other locations. Interested parties may participate from the location of their choice where a telephone is available. If an interested party is not available by telephone at the time set for the hearing, the hearing may be conducted in his absence.

B. If at any time during a telephone hearing the hearing officer determines that the issues are so complex that a fair and impartial hearing cannot be accomplished, the hearing officer shall adjourn the telephone hearing and reconvene an in-person hearing as soon as practicable.

§ 4.6. Notice of hearing.

Interested parties shall be afforded reasonable notice of a pending hearing. The notice shall state the time, issues involved, and the telephone number where the applicant/licensee can be reached.

§ 4.7. Witnesses.

Interested parties shall arrange to have their witnesses present at the time designated for the telephone hearing, or should supply a telephone number where the witnesses can be reached, if different from that of the interested party.

* * * * *

Title of Regulations: VR 125-01-2. Advertising.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: December 12, 1985

Summary:

The amendments to VR 125-01-2 are: (i) § 1 allows prominent living people to appear in alcoholic beverage advertising; (ii) § 2, allows references to manufacturers of alcoholic beverages to appear on certain advertising material used at the point-of-sale. Such advertising is otherwise prohibited and the amendment intends to allow only a reference to a manufacturer, not a brand, and only in connection

with the advertising of a responsible drinking or moderation in drinking programs; (iii) §§ 3 and 4 permit the terms "liquor" and "spirits" to be used in advertising on the exterior of licensed establishments and prohibits the term "happy hour" from being used on the exterior of licensed establishments; (iv) § 6 raises the value of novelty and specialty items which may be given away from \$1 to \$2 in response to inflation; (v) § 9 prohibits the use of coupons for on-premise drinks; and (vi) § 10 allows wholesale licensees to obtain point-of-sale advertising materials relating to charitable events directly from the source of material rather than requiring the charity to obtain the materials and provide them to the wholesaler, and prohibits wholesalers from paying directly or indirectly for the sponsorship of public events or obtaining any advertising value from the sponsorship of such events.

The major changes between the proposed and final regulations were in § 9 where coupons for purchase of alcoholic beverages for on-premises consumption were prohibited and in § 10 where wholesalers were permitted to cosponsor charitable events.

VR 125-01-2. Advertising.

~~Section 60-~~ § 1. Advertising generally; cooperative advertising; federal laws; beverages and cider; exceptions; restrictions.

A. Generally. - All alcoholic beverages and beverage advertising is permitted in this state except that which is prohibited or otherwise limited or restricted by this regulation and those following, and such advertising shall not be blatant or obtrusive. Any editorial or other reading matter in any periodical or publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee does not constitute advertising.

B. Cooperative advertising. - There shall be no cooperative advertising as between a producer, manufacturer, bottler, importer or wholesaler and a retailer of alcoholic beverages. The term "cooperative advertising" shall mean the payment or credit directly or indirectly by any manufacturer, bottler, importer or wholesaler whether licensed in this state or not to a retailer for all or any portion of advertising done by the retailer.

C. Federal laws. - Advertising regulations adopted by the appropriate federal agency pertaining to alcoholic beverages shall be complied with except where they conflict with regulations of the ~~Commission~~ board.

D. Beverages and cider. - Advertising of beverages, and cider as defined in ~~Sections 4-00 and~~ § 4-27[;] respectively, of the Code of Virginia, shall conform with the requirements of advertising beer.

E. Exceptions. - The ~~Commission~~ board may issue a

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permit authorizing a variance from these advertising regulations for good cause shown.

F. Restrictions. - No advertising shall contain any statement, symbol, depiction or reference that:

1. Would intend to induce minors to drink, or would tend to induce persons to consume to excess;
2. Is lewd, obscene or indecent, or depicts any person or group of persons which is immodest, undignified or in bad taste, or is suggestive of any illegal activity;
3. Incorporates the use of any present or former athlete or athletic team ~~or prominent living person~~ or implies that the product enhances athletic prowess;
4. Is false or misleading in any material respect, or implies that the product has a curative or therapeutic effect, or is disparaging of a competitor's product;
5. Implies or indicates, directly or indirectly, that the product is government endorsed by the use of flags, seals or other insignia or otherwise;
6. Makes any reference to the intoxicating effect of any alcoholic beverages;
7. Makes any appeal to order alcoholic beverages by mail;
8. Offers a special price on alcoholic beverages, unless such advertisement significantly conforms in size and content to the advertising of nonalcoholic merchandise offered for sale, except for coupons offered by manufacturers as provided in 125.01-2 § 9 of these regulations.
9. Is a contest or other offer to pay anything of value to a consumer where a purchase is required for participation.

~~Section 61.~~ § 2. Advertising; interior; retail licensees; show windows.

A. Interior advertising generally. - The advertising of alcoholic beverages inside retail establishments is within the discretion of the licensee, with the following exceptions:

1. No references may be made to any brand or manufacturer of alcoholic beverages offered for sale in this state on decorations, materials or furnishings on or supported by any wall, ceiling, floor or counter, unless:
 - a. Such references are contained in works of art;
 - b. Displayed in connection with the sale over the counter of novelty and specialty items as provided in ~~125.01-2~~ § 6 of these regulations. ~~or~~

c. Used in connection with the sponsorship of conservation and environmental, athletic and sporting, or charitable events in accordance with ~~125.01-2~~ § 10 ~~of these regulations.~~

d. Displayed on-service items such as placemats, coasters, glasses and table tents.

Further, alcoholic beverage brands or manufacturer references may be contained in wine "neckers," recipe booklets and brochures relating to the wine manufacturing process, vineyard geography and history of a wine manufacturing area, which must be shipped in the case.

2. Advertising materials regarding responsible drinking or moderation in drinking may not be used inside licensed retail establishments except under the following conditions:

a. Such materials shall contain no depictions of an alcoholic beverage product and no reference to any brands of alcoholic beverages;

b. Such materials shall contain no more than two minor references to the name of the alcoholic beverage manufacturer or its corporate logo;

c. Such materials are limited to posters of reasonable size and table tents.

d. Such materials shall be approved in advance by the board.

2 3 . Each draft beer knob must indicate the brand of beer offered for sale.

B. Manufacturers, wholesalers, etc. - No manufacturer, bottler, wholesaler or importer of alcoholic beverages, whether licensed in this state or not, may directly or indirectly sell, rent, lend, buy for or give to any retailer any advertising materials, decorations or furnishings under any circumstances otherwise prohibited by law, nor may any retailer induce, attempt to induce, or consent to any such supplier of alcoholic beverages furnishing such retailer any such advertising. *However, furnishing materials relating to moderation in drinking or responsible drinking programs is permitted [subject to the provisions of paragraph A 2. of this section].*

C. Show windows. - No advertising of alcoholic beverages, may be displayed in show windows facing outside the licensed establishment except that contained on table menus, or on newspaper tear sheets, provided such alcoholic beverage advertising is subordinate in size to the main advertising matter.

~~Section 62.~~ § 3. Advertising; exterior; signs; trucks; uniforms.

Outdoor alcoholic beverage advertising shall be limited

to signs and is otherwise discretionary except as follows:

A. Manufacturers and wholesalers, including wineries and farm wineries:

1. No more than one sign upon the licensed premises, no portion of which may be higher than ~~thirty~~ { 30 } feet above ground level on a wholesaler's premises;
2. No more than two signs, which must be directional in nature, not farther than ~~one-half~~ { 1/2 } mile from the licensed establishment limited in dimension to eight {8} feet in height or width, with advertising limited to brand names;
3. If the establishment is a winery also holding a winery off-premises license or is a farm winery, no more than two additional directional signs limited in dimensions to eight feet in height or width; and
4. Only on vehicles and uniforms of persons employed exclusively in the business of a manufacturer or wholesaler.

B. Retailers. - including mixed beverage licensees, other than carriers and clubs;

1. No more than two signs at the establishment and, in case of establishments at intersections, three signs, the advertising on which, including symbols approved by the United States Department of Transportation relating to alcoholic beverages, shall be limited to ~~twelve~~ { 12 } inches in height or width and not animated and, in the case of signs remote from the premises, subordinate to the main theme and substantially in conformance with the size and content of advertisements of other services offered at the establishment; and
2. Limited only to words and terms appearing on the face of the license describing the privileges of the license and, where applicable: "Mixed Drinks," "Mixed Beverages," "Cocktails," "Exotic Drinks," "Polynesian Drinks," "Cocktail Lounge," "~~Liquor,~~" "~~Spirits~~" and "~~Happy Hour~~" [or words of similar import], and not including any reference to or depiction of "Bar," "Bar Room," "Saloon," "Speakeasy," or "~~Liquor,~~" "~~Happy Hour~~" or references or depictions of similar import nor to prices of alcoholic beverages, including references to "special" or "reduced" prices or similar terms when used as inducements to purchase or consume alcoholic beverages.

~~Section 63.~~ § 4. Advertising; newspaper, magazines, radio, television, trade publications, etc.

A. Generally. - Beer wine, and mixed beverage advertising in the print or electronic media is permitted with the following exceptions:

1. All references to mixed beverages are prohibited

except the following: "Mixed Drinks," "Mixed Beverages," "Exotic Drinks," "Polynesian Drinks," "Cocktails," and "Cocktail Lounges," "~~Liquor~~" and "~~Spirits.~~"

2. The following terms or depictions thereof are prohibited: "Bar," "Bar Room," "Saloon," and "Speakeasy," and "~~Liquor~~" or references or depictions of similar import.

3. Any references to "Happy Hour" or similar terms which include references to prices, including references to "special" or "reduced" prices, or similar terms of inducements to purchase or consume alcoholic beverages are prohibited.

B. Further requirements and conditions:

1. All alcoholic beverage advertising shall include the name and address (street address optional) of the responsible advertiser.

2. No manufacturer, bottler or wholesaler shall be deemed to have any financial interest in the business of a retail licensee nor to have sold or given to the retail licensee any property nor to have engaged in cooperative advertising solely by virtue of any advertisement appearing in college publications or trade publications of association of retail licensees which conform to the conditions and limitations herein.

3. Advertisements of wine and mixed beverages are not allowed in student publications unless in reference to a dining establishment.

4. Advertisements of beer, wine and mixed beverages in publications not of general circulation which are distributed primarily to a high school or younger age level readership are prohibited.

~~Section 65.~~ § 6. Advertising; novelties and specialties.

A. Distribution of novelty and specialty items, including wearing apparel, bearing alcoholic beverage advertising, shall be subject to the following limitations and conditions:

1. Only items not in excess of ~~one dollar~~ (\$1.00) \$2 in wholesale value may be given away.

2. Items in excess of ~~one dollar~~ (\$1.00) \$2 in wholesale value may be donated by distilleries, wineries and breweries only to participants or entrants in connection with the sponsorship of conservation and environmental programs, events of a charitable nature or athletic or sporting events, but otherwise must be sold at the reasonable open market price:

- a. By mail upon request, and
- b. Over the counter at retail establishment

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customarily engaged in the sale of novelties and specialties.

3. Wearing apparel distributed must be in adult sizes.

~~Section 68.~~ § 9. Advertising; coupons.

Coupons may be advertised in accordance with the following conditions and restrictions:

1. A. Manufacturers of spirits, wine and beer may use only refund, not discount coupons. The coupons may not be honored at a retail outlet but must be mailed directly to the manufacturer or its designated agent. Such agent may not be a wholesaler or retailer of alcoholic beverages. Coupons are permitted in the print media, by direct mail to consumers or as part of, or attached to, the package. Coupons may be part of, or attached to, the package [~~only only~~] if the winery or brewery put them on at the point of manufacture. Wholesale beer licensees [~~in Virginia in Virginia~~] may not put them on the package at the wholesale premises [~~and and~~] [~~but wine wholesalers may do so, if done for all retail licensees equally.~~] coupons may not be shipped in the case to retailers.

2. B. Manufacturers offering coupons on distilled spirits and wine sold in state government stores must notify the ~~Commission board~~ at least 45 days in advance of issuance of the coupons of its amount, its expiration date and the area of the state in which it will be primarily used, if not used statewide.

3. C. Wholesale licensees of the ~~Commission board~~ are not permitted to offer coupons.

4. D. Retail licensees of the ~~Commission board~~ may offer coupons on wine and beer sold for [~~on or~~] off-premises consumption [~~only~~]. Retail licensees may offer coupons in the print media, at the point-of-sale or by direct mail to consumers. Coupons offered by retail licensees must appear in an advertisement with nonalcoholic merchandise and conform in size and content to the advertising of such merchandise.

5. E. No retailer may be paid a fee by manufacturers or wholesalers of alcoholic beverages for display or use of coupons; the name of the retail establishment may not appear on any coupons offered by manufacturers and no manufacturer or wholesaler may furnish any coupons or materials regarding coupons to retailers.

6. F. Retail licensees or employees thereof may not receive refunds on coupons obtained from the packages before sale at retail.

7. G. No coupons may be honored for any individual below the legal age for purchase.

~~Section 69.~~ § 10. Advertising; sponsorship of public events; restrictions and conditions.

A. Generally. - Alcoholic beverages advertising in connection with the sponsorship of public events shall be limited to sponsorship of conservation and environmental programs, athletic and sporting events.

B. Restrictions and conditions:

1. Programs and events on a high school or younger age level and college intramural events are prohibited.

2. Events on an amateur, semi-professional or intercollegiate level, are prohibited except for manufacturers of beer. Intercollegiate events must be approved in advance by the appropriate educational institutions.

3. Cooperative advertising as defined in ~~125-01-2~~ § 1 of these regulations is prohibited.

4. Awards or contributions of alcoholic beverages are prohibited.

5. Advertising of alcoholic beverages must conform in size and content to the other advertising concerning the event and advertising regarding charitable events must place primary emphasis on the charitable and fund raising nature of the event.

6. A charitable event is one held for the specific purpose of raising funds for a charitable organization which is exempt from federal and state taxes.

7. Advertising in connection with the sponsorship of an event may be only in the media, on the inside of licensed or unlicensed retail establishments and at the site of the event.

8. Point-of-sale advertising materials may not be furnished to retailers by manufacturers, bottlers, or wholesalers. However, at the request of the charity involved, employees of a wholesale licensee may deliver and place such material relating to charitable events which have been furnished to them by the charity involved. *Wholesale licensees of the board may deliver to retailers point-of-sale advertising materials relating to charitable events which have been furnished to them by a third party provided that the charity involved so requests.*

9. Point-of-sale advertising shall be limited to counter cards, cannisters and table tents of reasonable size.

10. Public events permissible for sponsorship must be of limited duration such as tournament or limited fund raising events. An entire season of activities such as a college football season may not be sponsored.

11. Prior written notice of the event must be submitted to the ~~Commission board~~ describing the nature of the sponsorship and giving the date, time and place of it.

12. ~~Manufacturers [must pay for the sponsorship of the may sponsor] public events and wholesalers may [not, in whole or in part, contribute or donate, either directly or indirectly, to a charity or nonprofit organization, so that the contribution is in any way considered in lieu of actual payment for sponsorship of the event only consponsor charitable events .~~

~~13. No wholesaler firm name or trade name shall be used in connection with sponsorship.]~~

* * * * *

Title of Regulations: VR 125-01-3. Tied-House.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: December 12, 1985

Summary:

The amendment to § 2 of this regulation allows wholesalers to restock wine and beer for a retailer at any time, except Sunday, not just at the time of sale or delivery; allows wholesalers to build displays using the wine or beer only and incorporates the provisions of former § 35 of the regulations, concerning exchange of products, into this section with changes which liberalize the rules concerning exchanging beer for retailers. Section 9 increases the value and number of beer bottles and can openers which wholesalers may give to retailers and adds statutory language as a matter of information to make it clear that a retailer who consents to a violation of this section has also committed a violation. The amendment to § 10 is pursuant to a recent amendment to § 4-79 of the Code of Virginia which permits wholesalers of alcoholic beverages to furnish routine business entertainment to retailers. The statutory amendment provided that the board shall permit and define routine business entertainment and this proposal will do that.

VR 125-01-3. Tied-House.

Section 34. § 2. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

A. Permitted acts. - A wholesaler, with the express consent of the retailer, which may be a continuing consent may For the purpose of maintaining the freshness of the stock and the integrity of the products sold by him , a wholesaler may perform, except on Sundays, the following services for a retailer upon consent, which may be a continuing consent, of the retailer:

- 1. Rotate [, repack] and rearrange old stocks of wine or beer in a display (shelves, coolers, cold boxes, and the like, and floor displays in a sales area) . originally built or created by the retailer, provided that the fundamental plan or design of the original display is not materially altered.

2. Restock beer and wine with old or new stocks at the time of delivery or sale of new stocks .

3. Rotate, rearrange and add to his own stocks of wine or beer in a storeroom space assigned to him by the retailer.

4. Transfer stocks of beer and wine, old or new between storerooms, between displays, and between storerooms and display at the time of delivery or sale of new stocks .

5. Create or build original displays using wine or malt beverage products only.

6. Exchange beer, for quality control purposes, on an identical quantity, brand and package basis. Any such exchange shall be documented by the word "exchange" on the proper invoice.

B. Prohibited acts. - A wholesaler may not:

1. Create or build original displays (Stacking of cases permitted.)

2. Transfer old or new stocks of wine or beer other than as herein permitted.

3 1. Alter or disturb in any way the merchandise sold by another wholesaler, whether in a display, sales area or storeroom.

4 2. Mark or affix retail prices.

3. Sell or offer to sell alcoholic beverages to a retailer with the privilege of return, except for ordinary and usual commercial reasons as set forth below:

a. Products defective at the time of delivery may be replaced.

b. Products erroneously delivered may be replaced or money refunded.

c. Resaleable draft beer or beverages may be returned and money refunded.

d. Products in the possession of a retail licensee whose license is terminated by operation of law, voluntary surrender or order of the board may be returned and money refunded.

e. Products which have been condemned and are not permitted to be sold in this state may be replaced or money refunded.

f. Beer may be exchanged on an identical quantity, brand or package basis for quality control purposes.

C. Definitions:

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1. "Old stock" shall mean merchandise which has been previously delivered to the retailer's premises, including that placed by the retailer in a display in a sales area.

2. "Sale" as used in subsection (a) of this Regulation shall mean the bona fide soliciting and receipt of an order for alcoholic beverages.

Rescind in its entirety:

Section 35. Replacements, refunds and adjustments; exceptions. (a) No replacement, refund or adjustment of any kind shall be made by a wholesale licensee to a retail licensee on a sale of an alcoholic beverage or beverage except with respect to erroneous deliveries, defective merchandise or resaleable draft beer or draft beverages; provided, no such replacement, refund or adjustment shall be made after 30 days of delivery for erroneous deliveries or after 90 days of delivery for defective merchandise.

(b) Exceptions. - Notwithstanding the foregoing, refunds may be made for alcoholic beverages or beverages (1) in possession of a person whose license has been terminated by operation of law, by voluntary surrender or by order of the Commission, (2) which have been condemned and are not permitted to be sold in this State or (3) in the event of extenuating circumstances in regard to erroneous or defective merchandise in which special permission of the Commission is granted.

Section 58. § 9. Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards.

A. Tapping equipment. - Any manufacturer, bottler or wholesaler may sell, rent, lend, buy for or give to any retailer, without regard to the value thereof, the following:

1. Draft beer knobs, containing advertising matter which must include the brand name and may further include only trademarks, housemarks and slogans and shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential in the dispensing of draft beer.

2. Tapping equipment, defined as all the parts of the mechanical system required for dispensing draft beer in a normal manner from the carbon dioxide tank through the beer faucet excluding the following:

- (a) The carbonic acid gas in containers, except that such gas may be sold only at the reasonable open market price in the locality where sold;
- (b) Gas pressure gauges (may be sold at cost);
- (c) Draft arms or standards;
- (d) Draft boxes;

(e) Refrigeration equipment or components thereof.

Further, a manufacturer, bottler or wholesaler may sell, rent or lend to any retailer, for use only by a purchaser of draft beer in kegs or barrels from such retailer, whatever tapping equipment may be necessary for the purchaser to extract such draft beer from its container.

B. Bottle or can openers. - Any manufacturer, bottler or wholesaler may sell or give to any retailer, bottle or can openers upon which advertising matter regarding alcoholic beverages may appear, provided the cumulative wholesale value of all such openers given to a retailer by an individual manufacturer bottler or wholesaler in any calendar year does not exceed fifty cents (50¢) wholesale value of any such opener given to a retailer by an individual manufacturer, bottler or wholesaler does not exceed \$1. Openers in excess of fifty cents (50¢) \$1 in wholesale value may be sold, provided the reasonable open market price is charged therefor.

C. Banquet licensees. - Manufacturers or wholesalers of wine or beer may sell at the reasonable wholesale price to banquet licensees paper or plastic cups upon which advertising matter regarding wine or beer may appear.

D. Cut case cards. - Any manufacturer, bottler or wholesaler of wine may sell, lend, buy for or give to any retailer of wine cut case cards, which are defined as promotional, two-dimensional printed matter no larger than double the largest single dimension of the case product to which they refer and supported entirely by the case, for use in displaying and advertising in the interior of his establishment other than in show windows, the sale of wines having an alcoholic content of 21% or less by volume, provided such manufacturer, bottler or wholesaler in furnishing such cards conforms with the regulations of the appropriate federal agency, relating to inside signs.

E. A retail licensee who consents to any violation of this section shall also be in violation.

§ 10. Routine business entertainment; definition; permitted activities; conditions.

A. Generally. - Nothing in these regulations shall prohibit a wholesaler of alcoholic beverages licensed in Virginia from providing to a retail licensee of the board "routine business entertainment" which is defined as those activities enumerated in subsection B. below [engaged in while discussing business matters and only to an extent which is usual and customary in a relationship between a buyer and seller].

B. Permitted activities -

- 1. Meals and beverages;
- 2. Concerts, theatre and arts entertainment;

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3. Sports participation and entertainment;
4. Entertainment at charitable events; and
5. Private parties.

C. Conditions - The following conditions apply:

1. Such routine business entertainment shall be provided without a corresponding obligation on the part of the retail licensee to purchase alcoholic beverages or to provide any other benefit to such wholesaler or to exclude from sale the products of any other wholesaler.
2. Wholesaler personnel shall accompany the personnel of the retail licensee during such business entertainment.
3. Except as is inherent in the definition of routine business entertainment as contained herein, nothing in this regulation shall be construed to authorize the providing of property or any other thing of value to retail licensees.
4. Routine business entertainment that requires overnight stay is prohibited.
5. Manufacturers of alcoholic beverages shall not entertain retain licensees nor assist a wholesaler in providing entertainment to retail licensees.
6. No more than [\$100 \$200] may be spent per 24-hour period on any [individual retail licensee or] employee [thereof of any individual retail licensee, including a self employed sole proprietor,] or, if the licensee is a partnership, on any partner or employee thereof, or if the licensee is a corporation, on any corporate officer, director, shareholder of 10% or more of the stock or other employee, such as a buyer. [Expenditures attributable to the spouse of any such employee, partner or stockholder, and the like, shall not be included within the foregoing restrictions.]
7. No person enumerated in subsection B.6. above may be entertained more than [four six] times per calendar year.
8. Wholesale licensees shall keep complete and accurate records for a period of three years of all expenses incurred in the entertainment of retail licensees. These records shall indicate the date and amount of each expenditure, the type of entertainment activity and retail licensee entertained.
9. This regulation shall not apply to personal friends of wholesalers as provided for in VR 125.01-7 § 10 (formerly § 43).

Title of Regulations: VR 125-01-4. Requirements for Product Approval.

Statutory Authority: §§ 4-7 and 4-11 of the Code of Virginia.

Effective Date: December 12, 1985

Summary:

Section 2 removes a burden on wholesale wine licensees. It provides that for good cause shown, the board can exempt a wine from the requirement that it be analyzed or a laboratory certificate furnished. This is of considerable importance for rare or expensive wines. The final regulations are the same as the proposed regulations.

VR 125-01-4. Requirements for Product Approval.

~~Section 12.~~ § 2. Wines, qualifying procedures; disqualifying factors; samples; exceptions.

A. Qualifying procedures. - All wines sold in the state shall be first approved by the ~~Commission~~ board as to content, container and label.

1. A certification acceptable to the ~~Commission~~ board or on a form prescribed by the ~~Commission~~ board describing the merchandise may accompany each new brand and type of wine offered for sale in the state. A certification fee and a registration fee in such amounts as may be established by the ~~Commission~~ board shall be included with each new certification.

2. In lieu of the aforementioned certification, there shall be submitted a sample and registration and analysis fees in such amounts as may be established by the ~~Commission~~ board ; provided, however, that wine already offered for sale by another state with which this state has an analysis and certification exchange agreement and wine sold through government stores shall be subject only to a registration fee in such amount as may be established by the ~~Commission~~ board .

3. All wine sold in this state shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

4. Subsequent sales under an approved label shall conform to the certification and analysis of the wine originally approved by the ~~Commission~~ board.

5. The board may approve a wine without benefit of a certification or analysis for good cause shown. Good cause includes, but is not limited to, wine which is rare.

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B. Disqualifying factors as to contents. - While not limited thereto, the ~~Commission~~ board shall withhold approval of any wine:

1. Which is an imitation or substandard wine as defined under regulations of the appropriate federal agency;
2. To which fruit juice, or artificial coloring has been added, except fruit juice may be contained in wine coolers containing ~~fourteen per cent~~ (14%) or less alcohol by volume and in sangria-type wines;
3. If the alcoholic content exceeds ~~twenty-one per cent~~ (21%) by volume;
4. Which is a wine cocktail containing any ingredient other than wine.

C. Disqualifying factors as to labels. - While not limited thereto, the ~~Commission~~ board shall withhold approval of any label:

1. Which contains the name of a cocktail generally understood to contain spirits;
2. Where the name of a state is used as a designation of the type of wine, but the contents do not conform to the wine standards of that state;
3. Which contains the word "cocktail" without being used in immediate conjunction with the word "wine" in letters of the same dimensions and characteristics, except labels for sherry wine;
4. Which contain the word "fortified" or implies that the contents contain spirits, except that the composition and alcoholic content may be shown if required by regulations of an appropriate federal agency.
5. Which contains any subject matter or illustration of a lewd, obscene or indecent nature.
6. Which contains subject matter designed to induce minors to consume alcoholic beverages, or is suggestive of the intoxicating effect of wine;
7. Which contains any reference to a game of chance;
8. Which contains any design or statement which is likely to mislead the consumer.

D. Samples. - A person holding a license as a winery, farm winery or a wholesale wine distributor shall upon request furnish the ~~Commission~~ board without compensation a reasonable quantity of such brand sold by him for chemical analysis; provided, however, that the ~~Commission~~ board may require recertification of the merchandise involved in lieu of such a sample. A fee in such amount as may be established by the ~~Commission~~

board shall be included with each recertification.

E. Exceptions. - Any wine whose content, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such wine was sold at retail in this state as of December 1, 1960, and remains the same in content, label and container.

* * * * *

Title of Regulations: VR 125-01-5. Retail Operations.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: December 12, 1985

Summary:

Section 1 incorporates the statutory provisions raising the age of purchase and consumption of beer and 3.2 beverages to 21 years, with a clause that permits those attaining the age of 19 years by July 1, 1985, be permitted to purchase and consume. Section 6 of these regulations allows hotels to sell miniature bottles of distilled spirits in bedrooms and in other private rooms during a scheduled private function. Section 16 places restrictions on practices such as "happy hour" and other methods of selling alcoholic beverage drinks which tend to promote consumption to excess and possibly resulting in accidents on our highways. The final regulations are the same as the proposed ones.

VR 125-01-5. Retail Operations.

~~Section 1.~~ § 1. Restrictions upon sale and consumption of alcoholic beverages and beverages.

A. Prohibited sales. - Except as may be otherwise permitted under §§ 4-48, or 4-50 of the Code of Virginia, no licensee shall sell any alcoholic beverage or beverage to a person whom he shall know or have reason at the time to believe is (i) under the age of ~~twenty-one~~ 21 years, except as to beer and beverages, as provided herein, or (ii) is intoxicated, or (iii) is an interdicted person. No licensee shall sell beer or ~~sell any beverage as defined in § 4-99 of the Code of Virginia~~ beverages to another person whom he shall know or have reason at the time to believe is ~~under the age of nineteen years had not attained the age of 19 years by July 1, 1985~~.

B. Prohibited consumption. - No licensee shall allow the consumption of any alcoholic beverage or beverage upon his licensed premises by any person to whom such alcoholic beverage or beverage may not lawfully be sold under this section.

~~Section 30.~~ § 6. Procedures for mixed beverage licensees generally; mixed beverage restaurant licensees; sales of spirits in closed containers; employment of minors; mixed beverages stamps.

A. Generally. - No mixed beverage restaurant or carrier licensee shall:

1. Preparation to order. - Prepare, other than in frozen drink dispensers of types approved by the ~~Commission~~ board, or sell any mixed beverage except pursuant to a patron's order and immediately preceding delivery to him.

2. Limitation on sale. - Serve as one drink the entire contents of any spirits containers having a greater capacity than a "miniature" of two (2) fluid ounces or 50 ml, nor allow any patron to possess more than two (2) drinks of mixed beverages at any one time. "Miniatures" may be sold ~~only~~ by carriers and by retail establishments licensed as hotels [, or restaurants upon the premises of a hotel, to sell mixed beverages]. However, such hotel licensees may sell miniatures only for consumption in bedrooms and in private rooms during a scheduled private function.

3. Type of ingredients. - Sell any mixed beverage to which alcohol has been added.

B. Mixed beverage restaurant licensees. - No mixed beverage restaurant licensee shall:

1. Stamps and identification. - Allow to be kept upon the licensed premises any container of alcoholic beverages of a type authorized to be purchased under this license which does not bear the required mixed beverage stamp imprinted with his license number and purchase report number.

2. Source of ingredients. - Use in the preparation of a mixed beverage any alcoholic beverage not purchased from the ~~Commission~~ board or a wholesale wine distributor.

3. Empty containers. - Fail to obliterate the mixed beverage stamp immediately when any container of spirits is emptied.

4. Miniatures. - Sell any spirits in a container having a capacity of two (2) fluid ounces or less, or 50 ml.

C. Sales of spirits in closed containers. - If a restaurant for which a mixed beverage restaurant license has been issued under § 4-98.2 of the Code of Virginia is located on the premises of and in a hotel or motel, whether the hotel or motel be under the same or different ownership, sales of mixed beverages, including sales of spirits packages in original closed containers purchased from the ~~Commission~~ board, as well as other alcoholic beverages and beverages, for consumption in bedrooms and private rooms of such hotel or motel, may be made by the licensee subject to the following conditions in addition to other applicable laws:

1. Spirits sold by the drink as mixed beverages or in original closed containers must have been purchased

under the mixed beverage restaurant license upon purchase forms provided by the ~~Commission~~ board.

2. Delivery of sales of mixed beverages and spirits in original closed containers shall be made only in the bedroom of the registered guest or to the sponsoring group in the private room of a scheduled function. This section shall not be construed to prohibit a licensee catering a scheduled private function from delivering mixed beverage drinks to guests in attendance at such function.

3. Receipts from the sale of mixed beverages and spirits sold in original closed containers, as well as other alcoholic beverages and beverages, shall be included in the gross receipts from sales of all such merchandise made by the licensee.

4. Complete and accurate records of sales of mixed beverages and sales of spirits in original closed containers to registered guests in bedrooms and to sponsors of scheduled private functions in private rooms shall be kept separate and apart from records of all mixed beverage sales.

D. Employment of minors. - No mixed beverage licensee shall employ a person less than ~~eighteen~~ 18 years of age in or about that portion of his licensed establishment used for the sale and consumption of mixed beverages; provided, however, that this shall not be construed to prevent the licensee from employing such a person in such portion of his establishment for the purpose of:

1. Seating customers or busing tables when customers generally are purchasing meals, or

2. Providing entertainment or services as a member or staff member of an otherwise adult or family group which is an independent contractor with the licensee for the purpose, or

3. Providing entertainment when accompanied by or under the supervision of a parent or guardian.

§ 16. Happy hour and related promotions; definitions; exceptions.

A. Definitions.

1. Happy hour. - A specified period of time during which alcoholic beverages are sold at prices reduced from the customary price established by retail licensee.

2. Drink. - Any beverage containing the amount of alcoholic beverages customarily served to a patron as a single serving by a retail licensee.

B. Prohibited practices. - No retail licensee shall engage in any of the following practices:

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1. *Conducting a happy hour between 9 p.m. of each day and 2 a.m. of the following day.*
2. *Allowing a person to possess more than two drinks at any one time during a happy hour.*
3. *Increasing the volume of alcoholic beverages contained in a drink without increasing proportionately the customary or established retail price charged for such drink.*
4. *Selling two or more drinks for one price, such as "two for one" or "three for one".*
5. *Selling pitchers of mixed beverages.*
6. *Giving away drinks.*
7. *Selling an unlimited number of drinks for one price, such a "all you can drink for \$5.00".*
8. *Advertising happy hour in the media or on the exterior of the licensed premises.*

C. *Exceptions. This regulation shall not apply to prearranged private parties, functions, or events, not open to the public, where the guests thereof are served in a room or rooms designated and used exclusively for private parties, functions or events.*

* * * * *

Title of Regulations: VR 125-01-6. **Manufacturers and Wholesalers Operators.**

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: December 12, 1985

Summary:

The amendments are housekeeping in nature and only affect procedure. The date a report is due is changed and a requirement to furnish copies of invoices, which is already done in practice, is added. The final regulations are the same as the proposed regulations.

VR 125-01-6. Manufacturers and Wholesalers Operators.

Section 14. § 2. Wines; purchase orders generally; wholesale wine distributors.

A. Purchase orders generally. - Purchases of wine from the ~~Commission~~ board, between licensees of the ~~Commission~~ board and between licensees and persons outside the state shall be executed only on orders on forms prescribed by the ~~Commission~~ board and provided at cost if supplied by the ~~Commission~~ board.

B. Wholesale wine distributors. - Wholesale wine distributors shall comply with the following procedures;

1. Purchase orders. A copy of each purchase order for wine and a copy of any change in such order shall be forwarded to the ~~Commission~~ board by the wholesale wine distributor at the time the order is placed or changed. Upon receipt of shipment, one copy of such purchase order shall be forwarded to the ~~Commission~~ board by the distributor reflecting accurately the date received and any changes.

2. Sales in the state. Separate invoices shall be used for all nontaxed wine sales in the state *and a copy of each such invoice shall be furnished to the board upon completion of the sale.*

3. Out of state sales. Separate sales invoices shall be used for wine sold outside the state [*and, a copy of each such invoice shall be furnished to the board upon completion of the sale.*]

4. Peddling. Wine shall not be peddled to retail licensees.

5. Repossession. Repossession of wine sold to a retailer shall be accomplished on forms prescribed by the ~~Commission~~ board and provided at cost if supplied by the ~~Commission~~ board, and in compliance with the instructions on the forms.

6. Reports to the ~~Commission~~ board. ~~Prior to the fifteenth day of each calendar month each~~ *Each* month wholesale wine distributors shall, on forms prescribed by the ~~Commission~~ board and in accordance with the instructions set forth therein, report to the ~~Commission~~ board the purchases and sales made during the preceding month; the amount of "State wine tax" collected from retailers pursuant to § 4-22.1 of the Code of Virginia; and the quantity of wine on hand at the close of business on the last day of the month based on the actual physical inventory by brands. Reports shall be accompanied by remittance for the amount of taxes collected, less any refunds, replacements or adjustments *and shall be postmarked no later than the 15th day of the month or, if the 15th day is not a business day, the next business day thereafter.*

* * * * *

Title of Regulations: VR 125-01-7. **Other Provisions.**

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: December 12, 1985

Summary:

The amendment to § 2 complies with a court ruling which stated that farm winery licensees may not be exempt from tax, and complies with the statutory amendment that raises the legal age for purchase and consumption of beer and 3.2 beverages. The

amendments to § 9 clarifies that records regarding beer must be kept for three years, not two; that licensees may use modern recordkeeping methods and that the exemption from reporting changes in ownership for companies whose stock is publicly traded applies only to changes in stock ownership. Section 13 has been amended to delete language granting a special privilege to certain licensees because the former restrictions on licensees have been removed and the special privileges are unnecessary. The amendments make § 15 applicable to wine, not just beer as is required by the adoption of the Wine Franchise Act by the General Assembly at its 1985 Session and clarifies the circumstances under which a winery or brewery may discriminate in price among its wholesalers. Section 16 changes the name of the Alcoholic Beverage Control Commission to the Alcoholic Beverage Control Board to comply with the legislative enactment of a standard nomenclature system which provides for all permanent collegial bodies such as the governing body of the Department of Alcoholic Beverage Control to be called a "Board." Section 17 incorporates previous guidance concerning the 25% limitation on out-of-state raw materials; and interpretation of "other agricultural products" as used in the statute and the nature of the additional retail outlet farm winery licensees may have. The final regulations are the same as the proposed regulations.

VR 125-01-7. Other Provisions.

Section 17. § 2. Procedures for handling cider; authorized licensees; containers; labels; markup; age limits.

A. Procedures for handling cider. - The procedures established by regulations of the ~~Commission board~~ for the handling of wine having an alcoholic content of not more than ~~fourteen per cent~~ 14% by volume shall, with the necessary change of detail, be applicable to the handling of cider, subject to the following exceptions and modifications.

B. Authorized licensees. - Licensees authorized to sell beer and wine, or either, at retail are hereby approved by the ~~Commission board~~ for the sale of cider and such sales shall be made only in accordance with the age limits set forth below.

C. Containers. - Containers of cider shall have a capacity of not less than ~~twelve~~ (12) ounces (375 ml. if in a metric sized package nor more than (1) one gallon (3 three liters if in a metric sized package).

D. Labels. - If the label of the product is subject to approval by the federal government, a copy of the federal label approval shall be provided to the ~~Commission board~~.

E. Markup. - The markup or profit charged by the ~~Commission board~~ shall be eight cents per liter or fractional part thereof. ~~No markup or profit shall be charged on cider manufactured under farm winery~~

licensees:

F. Age limits. - Persons must be ~~nineteen~~ ~~twenty-one~~ 21 years of age or older to purchase or possess cider. However, if a type of cider has an alcoholic content of more than seven per cent (7%) by volume and has been approved by the Commission as wine, persons must be twenty one years old or older to purchase or possess it.

~~Section 38. § 9.~~ Records to be kept by licensees generally; additional requirements for certain retailers; "sale" and "sell" defined; gross receipts; reports.

A. Generally. - All licensees of the ~~Commission board~~ shall keep complete and accurate records at the licensee's place of business for a period of two (2) years ~~except with respect to records regarding beer and 3.2 beverages which shall be kept three years as required by § 58.1-709, of the Code of Virginia, which records shall at all times during business hours be available for inspection by any member of the Commission board or its agents. Licensees of the board may commit these records to microfilm or other available technologies at any time during the period specified herein.~~

B. Retail licensees generally. - Retail licensees shall keep records of the purchases and sales of alcoholic beverages and beverages, and also records of the purchases and sales of foods and other merchandise including, but not limited to, purchase invoices of such alcoholic beverages, beverages, foods and other merchandise. The records of the purchases and sales of alcoholic beverages and beverages shall be kept separate and apart from other items.

C. Mixed beverage restaurant licensees. - In addition to the requirements of paragraphs A and B hereof, and separate and apart therefrom, mixed beverage restaurant licensees shall keep records of all alcoholic beverages purchased for sale as mixed beverages and records of all mixed beverage sales, and the following additional records:

1. Upon delivery of a mixed beverage restaurant license by the ~~Commission board~~, the licensee shall furnish to the ~~Commission board~~ or its agents a complete and accurate inventory of all alcoholic beverages and beverages then held in inventory on the premises by the licensee.

2. Each licensee at least annually on forms prescribed by the ~~Commission board~~ shall submit to the ~~Commission board~~, within ~~thirty~~ 30 days following the first day of the month next following the month in which the mixed beverage restaurant license was originally issued:

a. A complete and accurate inventory of all alcoholic beverages and beverages purchased for sale as mixed beverages, held in inventory at the close of business at the end of the annual review period, and

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b. An accounting of the annual purchases of food, nonalcoholic beverages, alcoholic beverages, and beverages, including alcoholic beverages purchased for sales as mixed beverages, and miscellaneous items, and

c. An accounting of the monthly and annual sales of all merchandise specified in subsection C. 2(b).

D. "Sale" and "sell" - The terms "sale" and "sell" shall include exchange, barter and traffic, and delivery made otherwise than gratuitously, by any means whatsoever, of mixed beverages, other alcoholic beverages and beverages, and of meals or food.

E. Gross receipts, food, alcoholic beverages, etc. - In determining "gross receipts from the sale of food" for the purposes of Chapter 1.1 (§ 4-98.1 et seq.) of Title 4 of the Code of Virginia, no licensee shall include any receipts for food for which there was no sale, as defined in this section. Food which is made available at an unwritten, nonseparate charge to patrons or employees during so called "happy hours," private social gatherings, promotional events, or at any other time, shall not be included in such gross receipts.

If in conducting its review pursuant to § 4-98.7 of the Code of Virginia the ~~Commission board~~ determines that the licensee has failed or refused to keep complete and accurate records of the amounts of mixed beverages, other alcoholic beverages or beverages sold at regular prices, as well as at all various reduced and increased prices offered by the licensee, the ~~Commission board~~ may calculate the number of mixed drinks, alcoholic beverages and beverage drinks sold, as determined from purchase records, and presume that such sales were made at the highest posted menu prices for such merchandise.

F. Reports. - Any changes in the officers, directors or shareholders owning ~~ten percent~~ (10%) or more of the *outstanding* capital stock of a corporation shall be reported to the ~~Commission board~~ within ~~thirty~~ (30) days; provided, however, that ~~this subsection shall not be applicable to licensed corporations or their wholly owned subsidiaries whose corporate common stock is publicly traded and owned shall not be required to report changes in shareholders owning 10% or more of the outstanding capital stock.~~

~~Section 49.~~ § 13. Special mixed beverage licensees; location; special privileges; taxes on licenses.

A. Location. - Special mixed beverage licenses may be granted to persons by the ~~Commission board~~ at places primarily engaged in the sale of meals where the place to be occupied is owned by the government of the United States, or any agency thereof, is located on land used as a port of entry or egress to and from the United States, and otherwise complies with the requirements of § 7.1-21.1 of the Code of Virginia, which licenses shall convey all of the privileges and subject to all of the requirements and

regulations pertaining to mixed beverage restaurant licensees, except as otherwise altered or modified herein.

B. Special privileges.

1. The licensee shall be exempt from compliance with the provisions pertaining to the number and sizes of tables in Section 51 except that the surface areas of tables shall not be less than five hundred and seventy-six (576) square inches.

2. "Meals" need not be "full meals," but shall at least constitute "light lunches," and the gross receipts from the sales thereof shall be not less than ~~forty-five per centum~~ 45% of the gross receipts from the sale of alcoholic beverages, mixed beverages, beverages as defined in § 4-99 and meals.

C. Taxes on licenses. - The annual tax on a special mixed beverage license shall be ~~five hundred dollars~~ (\$500 .00) and shall not be prorated; provided, however, that if application is made for a license of shorter duration, the tax thereon shall be ~~twenty five dollars~~ (\$25 .00) per day.

~~Section 57.~~ § 15. Wholesale beer alcoholic beverage and beverage sales; discounts, price-fixing; price increases; price discrimination; retailers.

A. Discounts, price fixing. - No [~~person holding a winery or brewery license, a bottler's license or a wine or beer importer's license winery as defined in § 4-118.23 or brewery as defined in § 4-118.4 of the Code of Virginia~~] shall require a person holding a wholesale beer license to discount the price at which the wholesaler shall sell any ~~beer alcoholic beverage~~ or beverage to persons holding licenses authorizing sale of such merchandise at retail. No ~~winery~~ , brewery, bottler or ~~wine or beer importer~~ shall in any other way fix or maintain the price at which a wholesaler shall sell any ~~beer alcoholic beverage~~ or beverage.

B. Notice of price increases. - No [~~person holding a winery or brewery license, a bottler's license or a wine or beer importer's license winery as defined in § 4-118.23 or brewery as defined in § 4-118.4 of the Code of Virginia~~] shall increase the price charged any person holding a wholesale beer license for ~~beer alcoholic beverages~~ or beverages except by written notice to the wholesaler signed by an authorized officer or agent of the ~~winery~~, brewery, bottler or importer which shall contain the amount and effective date of the increase. A copy of such notice shall also be sent to the ~~commission board~~ , and shall be treated as confidential financial information, except in relation to enforcement proceedings for violation of this section. No increase shall take effect prior to ~~thirty~~ 30 calendar days following the date on which the notice is postmarked; provided that the ~~commission board~~ may authorize such price increases to take effect with less than the aforesaid ~~thirty~~ 30 calendar days notice if a ~~winery~~ , brewery, bottler or ~~beer importer~~ so requests and

demonstrates good cause therefor.

C. No price discrimination by wineries, breweries and wholesalers. - No ~~brewery winery~~ as defined in § 4-118.23 or brewery, as defined in § 4-118.4 of the Code of Virginia, shall discriminate in price of beer alcoholic beverages between different wholesale purchasers and no wholesale wine or beer licensee shall discriminate in price of beer alcoholic beverages or beverages between different retail purchasers except where the difference in price charged by such winery, brewery or wholesale licensee is due to a bona fide difference in the cost of sale or delivery, or where a lower price was charged in good faith to meet an equally low price charged by a competing winery, brewery or wholesaler on a brand and package of like grade and quality. Where such difference in price ~~between~~ charged to any such wholesaler or retail purchasers does occur, the ~~Commission~~ board may ask and the winery, brewery or wholesaler shall furnish written substantiation for the price difference.

D. ~~Retailers Inducements~~. - No person holding a license authorizing sale of beer alcoholic beverages or beverages at wholesale or retail shall knowingly induce or receive a discrimination in price prohibited by paragraph C. of this section.

~~Section 59.~~ § 16. Alcoholic Beverage Control Commission Board.

Whenever in these rules and regulations the word "Board," "board," or "Commission" shall appear, and the clear context of the meaning of the provision in which it is contained is intended to refer to the Alcoholic Beverage Control ~~Commission Board~~, it shall be taken to mean the ~~Commission board~~.

§ 17. Farm wineries; percentage of Virginia products; other agricultural products; remote outlets.

A. No more than 25% of the fruits, fruit juices or other agricultural products used by the farm winery licensee shall be grown or produced outside this state, except upon permission of the board as provided in § 4-25.1, B. of the Code of Virginia. This 25% limitation applies to the total production of the farm winery, not individual brands or labels.

B. The term "other agricultural products" used in subsection A, includes wine.

C. The additional retail establishment authorized by statute to be located at a reasonable distance from the winery is not required to be a permanent one. It may be moved as necessary as long as one such remote outlet is operating at any given time. The location, equipment and facilities of each remote outlet shall be approved in advance by the board.

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulations: VR 240-03-1. Rules Relating to Compulsory Minimum Training for Private Security Services Business Personnel.

Statutory Authority: § 9-182 of the Code of Virginia.

Effective Date: January 1, 1986

Summary:

In accordance with the provisions of §§ 9-6.14:7.1 and 9-182 of the Code of Virginia, the Criminal Justice Services Board has adopted regulations relating to the Compulsory Minimum Training Standards for Private Security Services Business Personnel. These regulations will supersede the existing regulations amended November 1, 1982.

The adopted regulations revise the minimum training standards for private security business personnel and set forth operational procedures and administrative requirements for schools conducting private security services training. In addition, the regulations establish firearms retraining requirements for all armed private security services business personnel.

As a result of written comments received during the public comment period and testimony given at the public hearing, some changes were made. These changes did not significantly alter the content of the regulations as submitted in proposed form. In addition, there have been no significant changes in the basis, purpose, or impact of these regulations as originally proposed.

VR 240-03-1. Rules Relating to Compulsory Minimum Training for Private Security Services Business Personnel.

PART I. GENERAL.

Pursuant to the provisions of ~~Section 9-111.2~~ § 9-182 of the Code of Virginia (~~1950~~), as amended, the Criminal Justice Services ~~Commission Board~~ hereby promulgates the following rules for compulsory minimum training standards for ~~unarmed guards, armed guards/couriers, armored car personnel, guard dog handlers, private detectives/private investigators~~ private security services business personnel.

§ 1.1. Definitions.

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

"Approved training school" means a private security services ~~business~~ training school which provides instruction of at least the minimum training standards as established mandated and approved by the ~~commission~~ and has been

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approved by the commission or the executive director department for the specific purpose of training private security services business personnel .

"Commission" "Board" means the Criminal Justice Services Commission Board .

"Class" means a ~~one-hour~~ block minimum of 50 minutes of instruction on a particular subject.

"Department" means the Department of Criminal Justice Services.

"Executive" "Director" means the chief administrative officer of the ~~commission~~ department .

"Private security services business" means any person engaging engaged in the business of providing, or who undertakes to provide, armored car personnel, guards, private detectives/private investigators, couriers or guard dog handlers, to another person under contract, expressed or implied.

"Private security services business personnel" means any of the following employees employee of a private security services business who is employed as an unarmed guard, armed guard/courier, armored car personnel, guard dog handler or private detective/private investigator.

"Training" "School director" means the chief administrative director officer of an approved training school.

"Department" means the Department of Commerce, Commonwealth of Virginia.

"Session" means a group of classes comprising the total hours of mandated training in a category (unarmed guards, armed guards/couriers, armored car personnel, guard dog handlers, private detectives/private investigators). Sessions are approved on the basis of schedules submitted by approved training schools in accordance with ~~commission~~ rules established herein .

PART II. COMPULSORY MINIMUM TRAINING STANDARDS FOR PRIVATE SECURITY SERVICES BUSINESS PERSONNEL.

2-0 § 2.1. Compulsory minimum training standards - Part I - unarmed guards.

A. Pursuant to the provisions of Section 9-111.2 § 9-182 of the Code of Virginia (1950), as amended , the ~~commission~~ board establishes the following as compulsory minimum training standards for unarmed guards:

Core Subjects Hours

I- 1. Administration and security orientation 2 3

H- 2. Legal authority 6 [3 4]

HH- 3. Emergency and defensive procedures 4 [6 5]

IV- 4. Written Examination (refer to §§ 4.10 through 4.10,A,2)

Total (excluding written examination) 12

2-1 § 2.2. Compulsory minimum training standards - Part H - armed guards/couriers.

A. Pursuant to the provisions of Section 9-111.2 § 9-182 of the Code of Virginia (1950), as amended , the ~~commission~~ board establishes the following compulsory minimum training standards for armed guards/couriers:

Core Subjects Hours

I- 1. Administration and security orientation 2 3

H- 2. Legal authority 6 [3 4]

HH- 3. Emergency and defensive procedures 4 [6 5]

4. Core subjects written examination. (refer to §§ 4.10 through 4.10,A,2)

IV- 5. Firearms [4 6]

A- a. Classroom - 6 hours (Refer to Section 8-0,A- § 5.1,A.)

b. Shotgun classroom (if applicable) 1 (refer to § 5.1,B,1)

V- c. Firearms written examination. (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4).

B. Range - [Each individual must qualify with the hand weapon carried in the performance of duty according to the prescribed firearms course and be familiar with and fire any other firearm that is carried in the performance of duty. (Refer to Section 8-0,B. and C.)

d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1,A. and 5.1,B.)

Total (excluding written examinations, shotgun classroom and all firearms range training) 12 18 hours

2-2 § 2.3. Compulsory minimum training standards - Part HH - armored car personnel.

A. Pursuant to the provisions of Section 9-111.2 § 9-182 of the Code of Virginia (1950), as amended , the ~~commission~~ board establishes the following as compulsory

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minimum training standards for armored car personnel:

Core Subjects	Hours
I. Administration & Security Orientation	2
II. Legal Authority	6
III. Emergency and Defensive Procedures	4
IV. 1. Firearms	4 6
A. a. Classroom	6 hours
(refer to § 5.1,A.)	
b. Shotgun classroom (if applicable)	1
(refer to § 5.1,B,1).	
VIII. c. Firearms written examination. (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4)	

B. Range - [Each individual must qualify with the hand weapon carried in the performance of duty according to the prescribed firearms course and be familiar with and fire any other firearm that is carried in the performance of duty. (Refer to Section 8-0; B. and C.)]

d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1,A. and 5.1,B.)

V. Introduction to Armored Car Industry	1
VI. Security Operations	4
VII. Threat Situations	1
Total	22 6
(Excluding written examination, shotgun classroom and all firearms range training)	

~~2-3~~ § 2.4. compulsory minimum training standards - Part IV - guard dog handlers:

A. Pursuant to the provisions of Section ~~9-111.2~~ § 9-182 of the Code of Virginia (1950), as amended, the ~~commission board~~ establishes the following as compulsory minimum training standards for guard dog handlers:

Core Subjects	Hours
I. 1. Administration and security orientation	2 3
II. 2. Legal authority	6 [3 4]
III. 3. Emergency and defensive procedures	4 [6 5]

4. Core subjects written examination. (refer to §§ 4.10 through 4.10,A,2)

V. 5. Basic obedience retraining	6
VI. 6. Canine attack techniques	6
VII. 7. Written examination. (refer to §§ 4.10. and 4.10.A.1.2.)	
IV. 8. Firearms	4 6
A. a. Classroom	6
(refer to § 5.1,A.)	
b. Shotgun classroom (if applicable)	1
(refer to § 5.1,B,1)	
VIII. c. Firearms written examination. (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4)	

B. Range - [Each individual must qualify with the hand weapon carried in the performance of duty according to the prescribed firearms course and be familiar with and fire any other firearm that is carried in the performance of duty. (Refer to Section 8-0; B. and C.)]

d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1,A. and 5.1,B.)

Total (including firearms) (excluding written examinations, shotgun classroom and all firearms range training) 28 30 hours

~~2-4~~ § 2.5. Compulsory minimum training standards - Part V - private detectives/private investigators:

A. Pursuant to the provisions of Section ~~9-111.2~~ § 9-182 of the Code of Virginia (1950), as amended, the ~~commission board~~ establishes the following as compulsory minimum training standards for private detectives/private investigators.

I. Administration	1
II. 1. Private detectives/private investigators orientation .	4
III. 2. General investigative techniques	12 11
IV. 3. Interview and interrogation techniques	4
V. 4. Criminal law and procedure	6
VI. 5. Civil law and procedure	6 8
VII. Introduction to Criminal Justice System and Due	

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Process 2

6. Civil and criminal rules of evidence 4

VIII. Rules of Evidence 2

7. Collecting and reporting information 4

IX. Arrest 4

 1. Laws of Arrest

 2. Techniques & Mechanics of Arrest

X. Preservation and Protection of Crime Scene 3

XII. 8. Written comprehensive examination. 1

XI. 9. Firearms (if carried in the performance of duty)

 FL. 6

A. a. Classroom 6

 (refer to § 5.1, A.)

B. Range - [Each individual must qualify with the hand weapon carried in the performance of duty according to the prescribed firearms course and be familiar with and fire any other firearm that is carried in the performance of duty. (Refer to Section 8.0, B. and C.)]

b. Shotgun classroom (if applicable) - 1 hour. (refer to § 5.1,B,1)

V. c. Firearms written examination. (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4)

d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1.A. and 5.1.B.)

Total (Excluding shotgun classroom and all firearms range training) 48 hours

PART III. APPLICABILITY.

~~3-0,A.~~ § 3.1. Every person employed subsequent to November 1, 1976 by a private security services business as a guard, courier, armored car personnel, guard dog handler, private detective/private investigator as defined by Section § 54-729.27 of the Code of Virginia (1950), as amended, subsequent to November 1, 1976, who has not met the compulsory minimum training standards prior to the effective date of these regulations, must meet the compulsory minimum training standards herein established by the commission unless provided otherwise in accordance with §§ 3.2 or 3.3 .

~~3-0,B.~~ § 3.2. Persons who meet the statutory requirements as set forth in Section ~~9-111.2~~ § 9-182 of the Code of Virginia (1950), as amended , may apply for an exemption from the mandatory training. The executive director may issue such exemption or partial exemption on the basis of individual qualifications as supported by required documentation. The executive director shall not issue more than a partial exemption to those persons who have remained out of law-enforcement employment in excess of 24 months. Those applying for and receiving exemptions must also comply with the regulations promulgated by the Department of Commerce.

~~3-0,C.~~ § 3.3. The Executive director may authorize credit for training received at a ~~commission~~ department approved school which meets or exceeds the compulsory minimum training standards required for private security services business personnel provided that such training has been successfully completed with 24 12 months of the date of application.

PART IV. APPROVED TRAINING SCHOOLS OPERATIONS.

5-0 Approved Training Schools:

A. Private security services business personnel training schools may become approved training schools by making application to the commission on forms provided by the executive director. The executive director may, in accordance with Section 9-6.14:11 of the Administrative Process Act, approve these schools which, on the basis of curricula, training schedules, instructors, facilities, training school rules and regulations, and written examinations provide the required minimum training as established by the commission. Applications for school approvals must be resubmitted annually commencing in January and unless major changes are instituted, succeeding sessions in the same calendar year will only require a training schedule for approval. A disapproval may be appealed to the commission in accordance with Section 9-6.14:11 of the Administrative Process Act.

§ 4.1. Private security services business personnel training schools must be approved annually by the department prior to the first scheduled session. Approval is requested by making application to the director on forms provided by the department. The director, in accordance with § 9-6.14:11 of the Administrative Process Act, may approve those schools which on the basis of curricula, instructors and facilities provide training that meets the compulsory minimum training standards. A disapproval may be appealed to the board in accordance with § 9-6.14:11 of the Administrative Process Act.

~~5-0,B~~ § 4.2 Firearms Approved training schools may become approved training schools by making application to the commission on forms provided by the executive director desiring to conduct firearms training classes only must request approval in accordance with § 4.3 .

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C. Training schedules submitted for approval must include the date, time, subject and instructor for each class conducted during the session.

D. Complete and accurate requests to conduct approved training sessions must be postmarked 14 days prior to the commencement date. Any emergency changes in an approved session must be reported to the commission immediately followed by written notification postmarked the next working day.

§ 4.3. Approved training schools must submit a proposed training schedule to the department postmarked no less than 10 days prior to the beginning of each session. The training schedule must include the date, time, subject [location] and the name of the instructor for each class to be conducted during the training session. Any changes in an approved session must be reported to the department immediately, followed by written notification postmarked the next working day.

E. Approved training sessions will be conducted as scheduled.

F. § 4.4. Classes with instruction shall be taught provided in no less than one hour 50-minute classes.

G. § 4.5. Approved training may not exceed eight hours per day.

5-0,H § 4.6. Instructor qualifications.

A. Instructors teaching in an approved training school must be approved by the department. Instructor qualifications shall be determined based upon previous work experience, instructional experience, training, and education and should meet the following minimum qualifications: . As a minimum, instructors should meet the following requirements:

1. Have a minimum of two years supervisory experience with a contract security company, or with any federal, U.S. military, state, county or municipal law-enforcement agency, or
2. Have a minimum of one year experience as an instructor or teacher at an accredited educational institution or agency in the subject matter for which approval is requested or in a related field in which he is teaching .

5-0,I § 4.7. Approved training schools will be subject to inspection and review by the executive director and/or his staff. Out-of-state approved training schools which require inspection may be required to pay for actual expenses of inspection.

5-0,J § 4.8. Mandated training conducted without prior written approval from the commission department is null and void.

K. The commission may revoke the approval of an approved training school in accordance with the Administrative Process Act Section 9-6.14:1, et seq.

L. The executive director may suspend the approval of an approved training school in accordance with the Administrative Process Act Section 9-6.14:1 et seq. Such suspension may be appealed to the commission for consideration, in accordance with the procedures as set forth in Section 9-6.14:11 of the Administrative Process Act.

§ 4.9. The department may suspend or revoke the approval status of an approved training school upon written notification to the school's director. Such notification shall contain the reasons for revocation or suspension. The school's director may appeal the revocation or suspension by requesting a hearing before the board. The request shall be in writing and must be received at the department within 15 days of the date of the revocation or suspension notification.

6-0,A § 4.10. Written examinations: grading.

A written comprehensive examination is required at the conclusion of training of the core subjects. When additional training in excess of the core subjects is necessary to meet the requirements set forth for armed guards/couriers, armored car personnel, or guard dog handlers, an additional examination will be administered specifically for that portion of training. Schools conducting training for private detectives/private investigators are required to administer a comprehensive examination at the conclusion of training.

6-0,B A. All written examinations shall include at least three questions for each hour class of instruction in a particular area of mandatory training.

C. Any examination administered in an approved training school will be subject to review and inspection by the executive director and/or his staff.

§ 7.0 Grading

A. Individuals must receive a minimum grade of 70% on written examinations to satisfactorily complete mandatory training. Examinations covering the core subjects will be divided into three sections (Administration and Security Orientation, Legal Authority, Emergency and Defensive Procedures) covering each specific area of training and a minimum of 70% must be obtained in each area. If an individual does not attain a minimum of 70% in each core subject area, he will be required to repeat the training in the specific area where he is deficient and be retested on that area. In all other areas of training, (firearms, armored car personnel, guard dog handlers, private detectives/private investigators), if an individual does not attain a minimum of 70% on the examination, he will be required to repeat the training in its entirety after which he will be required to retake the examination.

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7.0,A 1. Each core subject shall be separately tested and graded. Individuals must attain a minimum score of 70% in each core subject. Any individual who fails to attain a minimum score of 70% in each core subject will be required to repeat the training in the core subject(s) in which the individual is deficient and attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

7.0,A 2. Mandated training in excess of the core subjects shall be tested and graded. A minimum score of 70% must be attained on the examination(s) covering those mandated subjects in excess of the core subjects. If an individual does not achieve a minimum score of 70% on the examination, the individual will be required to retake such training and must attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

7.0,A 3. Firearms classroom training shall be separately tested and graded. Individuals must achieve a minimum score of 70% on the firearms classroom training examination. Any individual who fails to achieve a minimum score of 70% will be required to retake such training and must attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

7.0,B 4. Failure to pass the written examination at the conclusion of the Firearms Classroom training achieve a minimum score of 70% on the firearms written examination will exclude the individual from the firearms range training.

7.0,C Firearms range training will be graded on a satisfactory/unsatisfactory basis. Any armed private security services business personnel who does not exhibit an adequate knowledge of the safety factors and proper techniques in the handling of a firearm to the instructor's satisfaction and who does not achieve a familiarization score of at least 85 points out of a possible total of 125 points on the course prescribed in Section 8.0,C, will not have satisfactorily completed the mandatory training for armed private security services business personnel.

5. Firearms range training will be graded on a satisfactory/unsatisfactory basis. All armed private security services business personnel must achieve a score of at least 70% ([126 88] points out of a possible [180 125] points on the course prescribed in § 5.1,A.)

PART V. FIREARMS TRAINING.

8.0 § 5.1. Firearms.

Private security services business personnel who carry or have a firearm available for immediate use in the performance of duty will be required to meet the

provisions of § 5.1,A and/or § 5.1,B.

A. Handgun.

8.0,A 1. Classroom training - classroom training will emphasize but not be limited to:

8.0,1 Safe and proper use and handling of firearms;

8.0,2 Nomenclature;

8.0,3 Legal responsibility and liability for improper or negligent use of firearms.

a. The proper care of the weapon,

b. Civil liability of use of firearms,

c. Criminal liability of use of firearms,

d. Deadly force,

e. Justifiable deadly force,

f. Range safety.

8.0,B 2. Range firing - (no minimum hours required) - The purpose of this course is to introduce armed private provide practical firearms training to individuals desiring to become armed private security services business personnel to the safe and proper handling of a firearm .

8.0,4 a. Prior to the date of range training it will be the responsibility of the training school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training.

8.0,C b. Course - Modified private security double action.

c. Ammunition - 50 [36 25] rounds - (25 rounds - practice, 25 rounds - familiarization score) [Ammunition must be of same type as carried in performance of duty Wadcutter or duty ammunition may be used for practice and/or range qualifications].

d. Target - Silhouette (full-size B-27) - Alternate targets may be utilized with prior approval by the director.

8.0,C 3. Course: Modified private security [double action firearms course].

Stage	Distance	Position	Number Rounds	Time
a.	7 3 yds.	Crouch Standing (stronghand)	10 6	40 20 seconds
[a.] b.	15 3 yds.	Point Shoulder	10 6 [5]	40 15 seconds
[b.] c.	25 7 yds.	Standing (with or without barricade) Point Shoulder	5 12 [10]	60 45 seconds
[c.] d.	15 yds.	Point shoulder	12 [10]	45 seconds

8-0,€ 4. Scoring: Point value indicated on training key located on the B-27 target. An individual must score at least 70% ([126 88] points out of a possible total of [180 125] points) to satisfactorily complete the course .

* To accommodate smaller ranges, a reduced target (B-34) may be used at this stage from the 15-yard line.

8-0,€ 5. An approved firearms instructor must be on the range during all phases of firearms familiarization range training . There shall be one firearms instructor or assistant per four shooters on the line.

B. Shotgun training.

1. Classroom training - classroom instruction will emphasize but not be limited to:

a. Safe and proper use and handling of shotgun,

b. Nomenclature,

2. Range firing (no minimum hours required) - The purpose of this course is to provide practical shotgun training to those individuals who carry or have immediate access to a shotgun in the performance of their duty.

3. Ammunition - 5 rounds - Ammunition must be of sametype as carried in the performance of duty.

4. Course: Modified shotgun range

Distance	Position	No.	Rounds Target
25 Yds.	Standing/Shoulder	5	Silhouette

5. An approved firearms instructor must be on the range during all phases of firearms range training. There shall be one firearms instructor or assistant per four shooters on the line.

§ 5.2. Firearms retraining.

All armed private security services business personnel must satisfactorily complete firearms classroom and range training as prescribed in subsections A and B of § 5.1, if applicable, within every other calendar year as set forth below.

A. All persons who were registered as armed private security services business personnel during the period of March 17, 1977, through December 31, 1984, shall comply with this provision by December 31, 1986, and thereafter by December 31 of every other calendar year.

B. All persons who were registered as armed private security services business personnel during the period of January 1, 1985, through December 31, 1985, shall comply with this provision by December 31, 1987, and thereafter

by December 31 of every other calendar year.

C. All persons who are registered as armed private security services business personnel on or after the effective date of this regulation shall comply with this provision by December 31 of the second calendar year after receipt of armed registration and thereafter by December 31 of every other calendar year.

PART VI. ATTENDANCE AND ADMINISTRATIVE REQUIREMENTS

4-0,A § 6.1. The compulsory minimum training required by the commission for private security services business personnel may be obtained standards shall be attained by attending and satisfactorily completing an approved training school.

4-0,B § 6.2. Private security services business personnel attending enrolled in an approved training school are required to attend all prescribed mandatory training classes .

4-0,€ § 6.3. Tardiness and absenteeism will not be permitted. Individuals violating these provisions will be required to make up any training missed.

10-0,A § 6.4. Each training school director will be required to maintain a current file of attendance records, examination scores, and firearms familiarization scores, on each individual and copies of examinations used in approved training schools offering the compulsory minimum training as promulgated by the commission for three years from the date of the training session in which the individual attendee was enrolled .

10-0,B § 6.5. Any changes in an approved school curriculum, instructors, and training schedules, shall be reported to the commission staff department in advance of any such change.

§ 6.6. The school director of each approved training school shall submit a certification of completion of training form which must be postmarked within seven days of the conclusion date of an approved training session, for each student who has satisfactorily completed the training session. The certification form will be prepared in triplicate; the original is to be submitted to the Department of Commerce, one copy provided to the student and one copy to be retained on file with the approved training school for three years. The training certification forms will be provided by the Department of Commerce.

10-0,€ § 6.7. The resumes and objectives as approved by the department must be adhered to as a minimum and all subject matter must be presented in its entirety.

9-0 § 6.8. Failure to comply with rules and regulations.

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All individuals attending an approved training school shall comply with the rules promulgated by the ~~commission board and any other rules within the authority of the school director~~ . The ~~training school director~~ shall be responsible for their ~~proper enforcement enforcement of all rules established to govern the conduct of attendees~~ . If the ~~training school director considers the violation of the rules detrimental to the welfare of the school, he/she~~ the school director may expel the individual from the school and the ~~training director will not certify the individual as having satisfactorily completed the required training as promulgated by the commission~~ . Notification of such action shall immediately be reported to the employing agency and the director .

PART VII. CERTIFICATION.

~~1-0~~ § 7.1. Effective date.

These rules shall be effective January 1, 1986 and until amended or rescinded.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulations: VR 394-01-101. Urban Enterprise Zone Program Regulations.

Statutory Authority: § 59.1-278 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation amends the Urban Enterprise Zone Program to allow local governments that delineated enterprise zones smaller than the maximum size authorized in the program regulations to request permission to enlarge their zones up to the maximum size limits. The changes establish procedures for local government to follow when seeking permission to enlarge their zones.

VR 394-01-101. Urban Enterprise Zone Program Regulations.

PART I. 2-00 DEFINITIONS.

~~2-01 General-Definitions contained in this Section will be observed in the text of these regulations.~~

~~2-02~~ § 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

~~2-02-01~~ "Average number of full-time employees" means the number of full-time employees during each payroll

period of a business firm's taxable year divided by the number of payroll periods:

a. 1. In calculating the average number of full-time employees, a business firm may count only those full-time employees who worked at least one-half of their normal work days during the payroll period. Paid leave time may be counted as work time.

b. 2. For a business firm which uses different payroll periods for different classes of employees, the average number of full-time employees of the firm shall be defined as the sum of the average number of full-time employees for each class of employee.

~~2-02-02~~ "Base taxable year" means the taxable year preceding the first taxable year for which a firm qualifies for state tax incentives under this program.

~~2-02-03~~ "Business firm" means any business entity, incorporated or unincorporated, which is authorized to do business in the Commonwealth of Virginia and which is subject to state individual income tax, state corporate income tax, state franchise or license tax on gross receipts, or state bank franchise tax on net taxable capital:

a. 1. The term "business firm" includes partnerships and small business corporations electing to be taxed under Subchapter S of the Federal Internal Revenue Code, and which are not subject to state income tax as partnerships or corporations, but the taxable income of which is passed through to and taxed as income of individual partners and shareholders.

b. 2. The term "business firm" does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, Section § 512; nor does it include homeowners associations as defined in the Federal Internal Revenue Code, Section § 528.

~~2-02-05~~ "Department" means the Department of Housing and Community Development.

~~2-02-06~~ "Develop" means to make improvements to land through the construction, conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement or remodeling of a structure(s) to accommodate the principal use to which the land is or will be put. a. Improvements to land where parking is the principal use shall not constitute development pursuant to the requirements in Section ~~7-01-01~~ § 7.1A , except where the buyer can demonstrate to the satisfaction of the seller that such use is necessary in order to further the purpose of the program (see Section ~~1-03~~ § 2.3) and the local development objectives outlined in the application for zone designation.

~~2-02-04~~ "Employee of a zone establishment" means a person employed by a business firm who is on the payroll

of the firm's establishment(s) within the zone. **a.** In the case of an employee who is on the payroll of two or more establishments of the firm, both inside and outside the zone, the term "employee of a zone establishment" refers only to such an employee assigned to the firm's zone establishment(s) for at least one-half of his normally scheduled work days.

2.02.07 "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed:

a. 1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.

b. 2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm.

2.02.11.01 "Family" means (i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent shall be considered to be related by marriage ; **a.** (ii) one or more persons not living in the same residence but who were claimed as a dependent on another person's federal income tax return for the previous year shall be presumed, unless otherwise demonstrated, part of the other person's family ; **or b.** (iii) an individual 18 or older who receives less than 50% of his support from the family, and who is not the principal earner nor the spouse of the principal earner, shall not be considered a member of the family. Such an individual shall be considered a family of one.

2.02.11.02 "Family income" means all income actually received by all family members over age 16 from the following sources:

1. Gross wages and salary (before deductions);
2. Net self-employment income (gross receipts minus operating expenses);
3. Interest and dividend earnings; and
4. Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from family income:

1. Noncash benefits such as food stamps and housing assistance;
2. Public assistance payments;

3. Disability payments;

4. Unemployment and employment training benefits;

5. Capital gains and losses; and

6. One-time unearned income.

When computing family income, income of a spouse and/or other family members shall be counted for the portion of the income determination period that the person was actually a part of the family.

2.02.11.03 "Family size" means the largest number of family members during the income determination period.

2.02.08 "Full-time employee" means a person employed by a business firm who is normally scheduled to work at least 35 hours per week during the firm's payroll period. **a.** The term "full-time employee" does not include unpaid volunteer workers.

2.02.09 "Gross receipts attributable to the active conduct of trade or business within an Urban Enterprise Zone" means all receipts of the business firm arising from the firm's activities or from the investment and use of the firm's capital in its establishment(s) within the zone. The proportion of gross receipts arising from the firm's activities , or from its investment and use of capital within the zone , shall be calculated by dividing the total expenses of the firm's establishment(s) within the zone by the firm's total expenses both inside and outside the zone:

a. 1. This calculation must be used to allocate and apportion taxable gross receipts against which state franchise or license tax credits may be claimed (see ~~Section 9.02.03~~ § 9.2C).

b. 2. This calculation may not be used to allocate and apportion Virginia taxable income against which state corporate and individual income tax credits may be claimed or taxable net capital against which state franchise tax credits may be claimed.

2.02.11.04 "Income determination period" means the 12 months immediately preceding the month in which the person was hired.

2.02.10 "Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives under this program.

2.02.11 "Low-income person" means a person who is a full-time employee of a business firm seeking qualification and whose family had an income which was less than 80% of median family income during the income determination period.

2.02.11.05 "Median family income" means the dollar

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amount, adjusted for family size, as determined annually by the department for the city or county in which the zone is located.

2.02.12 "Metropolitan central city" means a city so designated by the U.S. Office of Management and Budget.

2.02.13 "Payroll period" means the period of time for which a business firm normally pays its employees.

2.02.14 "Secretary" means the Secretary of Commerce and Resources.

2.02.15 "Surplus public land" means land within a zone which is owned by the Commonwealth or a unit of local government and which meets the following standards :

a. 1. In the case of land owned by a unit of local government, ~~1-~~ (i) the land is not being used for a public purpose nor designated or targeted for a specific public use in an adopted land use plan, facilities plan, capital improvements plan or other official public document; ~~2-~~ (ii) no tangible harm would be incurred by the unit of local government if the land were eliminated from its holdings; and ~~3-~~ (iii) sale of the land would not violate any restriction stated in the deed.

b. 2. In the case of land owned by agencies of the Commonwealth, except land acquired by the Virginia Department of Highways and Transportation for the construction of highways, the land has been determined to be surplus to the Commonwealth in accordance with criteria and procedures established pursuant to §§ 2.1-504 through 2.1-512 ; of the Code of Virginia (1950) as amended .

e. 3. In the case of land acquired by the Virginia Department of Highways and Transportation for the construction of highways, the land has been determined to be surplus to the needs of the State Highway Commission and the Commonwealth in accordance with criteria and procedures established pursuant to §§ 33.1-93, 33.1-149 and 33.1-154 of the Code of Virginia (1950) as amended . The State Highway Commission, prior to determining that land surplus to its needs is also surplus to the Commonwealth, may make such land available to other state agencies in accordance with procedures established pursuant to §§ 2.1-504 through 2.1-512 of the Code of Virginia (1950) as amended .

2.02.16 "Tax due" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission.

2.02.17 "Tax year" means the year in which the assessment is made.

2.02.18 "Taxable year" means the year in which the tax due on state taxable income, state taxable gross receipts

or state taxable net capital is accrued.

2.02.19 "Unit of local government" means any county, city or town. ~~a-~~ Special-purpose political subdivisions, such as redevelopment and housing authorities and industrial development authorities, are not units of local government.

2.02.20 "Zone" means an Urban Enterprise Zone declared by the Governor to be eligible for the benefits of this program.

PART II.

1.00 GENERAL PROVISIONS.

~~1.01~~ § 2.1. Authority.

These regulations are issued by the Board of Housing and Community Development, Commonwealth of Virginia , as required by § 59.1-278 ; of the Code of Virginia (1950) as amended .

~~1.02~~ § 2.2. Scope and applicability.

These regulations describe the procedures and requirements that will be used to implement the Virginia Urban Enterprise Zone Program.

~~1.03~~ § 2.3. Purpose of program.

The purpose of the Virginia Urban Enterprise Zone Program is to stimulate business and industrial growth which would result in revitalization of neighborhoods by means of regulatory flexibility and tax incentives. This program is to be directed to areas of the Commonwealth that need special governmental attention to attract private sector investment.

~~1.04~~ § 2.4. Compliance with the Virginia Administrative Process Act.

The provisions of the Virginia Administrative Process Act, Title 9; § 9-6.14:1 of the Code of Virginia (1950), as amended , shall govern the issuance and administration of these regulations.

~~1.05~~ § 2.5. Severability.

If any provision of these regulations is held to be invalid, this does not invalidate other provisions which are severable from it.

PART III.

3.00 ELIGIBILITY CRITERIA.

~~3.01~~ § 3.1. Eligible applicants for zone designation.

Eligible applicants include the governing body of any county, city or town.

~~3.01.01~~ A. Applications on behalf of towns - The governing body of a county may apply for designation of

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an Urban Enterprise Zone on behalf of a town located within the county.

~~3-01-02~~ B. Joint applications - Two or more adjacent eligible jurisdictions may file a joint application for an Urban Enterprise Zone lying in the jurisdictions submitting the application.

~~3-01-03~~ C. Limit on applications - Eligible jurisdictions may submit only one application for the designation of an Urban Enterprise Zone. This limitation includes the submission of a joint application with other jurisdictions.

~~3-02~~ § 3.2. Zone eligibility requirements.

To be eligible for consideration, an application for an Urban Enterprise Zone must meet the following requirements.

~~3-02-01~~ A. Contiguous area - The proposed zone must consist of a contiguous area.

~~3-02-02~~ B. Distress criteria - The proposed zone must meet at least one of the following criteria as enumerated in the 1980 U.S. Census: ~~1.~~ (i) 25% or more of the households must have had incomes below 80% of the median household income of the county or city; or ~~2.~~ (ii) the unemployment rate must have been at least 1.5 times the state average.

~~3-02-03~~ C. Zone size - The proposed zone shall conform ~~substantially~~ to the following size guidelines. In a joint application, the portion of the zone proposed in each jurisdiction shall conform ~~substantially~~ to the guidelines:

~~3-02-03-01~~ 1. Size limits for zones in Metropolitan Central Cities -

a. Minimum: 1/2 square mile (320 acres). In no instance shall a zone consist only of a site for a single business firm.

b. Maximum: 1 square mile (640 acres) or 7% of the jurisdiction's land area or population, whichever is largest.

~~3-02-03-02~~ 2. Size limits for zones in towns and cities other than Metropolitan Central Cities -

a. Minimum: 1/4 square mile (160 acres). In no instance shall a zone consist only of a site for a single business firm.

b. Maximum: 1/2 square mile (320 acres) or 7% of the jurisdiction's land area or population, whichever is largest.

~~3-02-03-03~~ 3. Size limits for zones in unincorporated areas of counties -

a. Minimum: 1/2 square mile (320 acres). In no instance shall a zone consist only of a site for a single business firm.

b. Maximum: 4 square miles (~~approximately~~ 2,500 2,560 acres).

~~3-02-03-04~~ 4. Exception for zones in cities formed through consolidation - Zones in cities, the existing boundaries of which were created through the consolidation of a city and county, or the consolidation of two cities, shall conform substantially to the minimum and maximum size guidelines for unincorporated areas of counties as set forth in ~~Section 3-02-03-03~~ § 3.2C(3) .

PART IV.

4-00 PROCEDURES AND REQUIREMENTS FOR ZONE DESIGNATIONS.

~~4-01~~ § 4.1. Procedures for zone application and designation.

Up to 12 Urban Enterprise Zones will be designated by the Governor in accordance with the following procedures and requirements.

~~4-01-01~~ A. Applications for zone designation - Applications for zone designation will be solicited by the department in accordance with the following procedures and requirements:

~~4-01-01-01~~ 1. Application form - An application for zone designation must be submitted on Form UEZ-1 to the Director, Virginia Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219, on or before the submission date established by the department.

~~4-01-01-02~~ 2. Local public hearing - The local governing body must hold at least one public hearing on the application for zone designation prior to its submission to the department.

~~4-01-01-03~~ 3. Application requirements - In order to be considered in the competitive zone designation process an application must provide all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the local governing body held the public hearing required in ~~Section 4-01-01-02~~ § 4.1A(2) .

~~4-01-01-04~~ 4. Proposed local incentives - As part of its application a locality may propose local incentives such as regulatory and tax relief, and infrastructure and service delivery improvements, in order to stimulate private investment in the proposed zone. The likely impact of proposed local incentives in offsetting identified barriers to private investment in the proposed zone, together with the projected impact of state tax incentives, will be factors in evaluating applications.

a. The local governing body may propose incentives which it will make generally available throughout the zone

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or available only under specified conditions. Likewise, the local governing body may propose incentives to be provided for the entire life of the zone or for any shorter period.

b. Proposed local incentives may be provided by the local governing body itself or by an assigned agent(s) such as a local redevelopment and housing authority, a private nonprofit entity or a private for-profit entity. In the case of a county which submits an application on behalf of an incorporated town, the county may designate the governing body of the town to serve as its assigned agent. In the case of a county which submits an application for a zone encompassing unincorporated county areas as well as portions of one or more towns, the county may designate the governing body(ies) or the town(s) to serve as its assigned agent(s).

4.01.02 B. Departmental review of applications - Within 60 days following the application submission date, the department shall review and forward to the Governor those applications determined to be eligible for Urban Enterprise Zone designation under ~~Section 3.02~~ § 3.2 .

4.01.03 C. Director's review of eligible applications - Within 30 days of forwarding eligible applications to the Governor, the Director of the Department of Housing and Community Development shall recommend to the Governor those which are determined to have the greatest potential for accomplishing the purpose of the program.

4.01.04 D. Governor's designation - The Governor shall designate, upon recommendation of the Director, Urban Enterprise Zones for a period of 20 years. The Governor's designation shall be final.

4.01.05 E. Notification of denial - A local governing body whose application for zone designation is denied shall be notified and provided with the reasons for denial.

4.02 § 4.2. Procedures and requirements for joint applications.

Two or more adjacent jurisdictions submitting a joint application as provided for in ~~Section 3.01.02~~ § 3.1B must meet the following requirements :

4.02.01 A. Designation of a program administrator - The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing a survey of zone business conditions and annual reports as provided for in ~~Section 7.02~~ §§ 7.2 and 7.03 7.3 .

4.02.02 B. Submission of joint applications - In order to submit a joint application, Form UEZ-1 must be completed and filed by the jurisdiction acting as program administrator in accordance with the procedures set forth in ~~Sections 4.01.01.01~~ §§ 4.1A(1) through 4.01.01.04 4.1A(4) . In addition, a copy of Form UEZ-1-JA must be completed by each of the other participating jurisdictions to certify

that they are in agreement in filing the joint application. A copy(ies) of Form UEZ-1-JA must be submitted to the department with Form UEZ-1.

4.02.03 C. Other requirements - The applicants must meet all other requirements of these regulations pertaining to applicants. In the case of joint applications, all references to "applicant" and "local governing body" contained in the text of these regulations shall mean the governing body of each participating jurisdiction.

PART V.

5.00 PROCEDURES FOR ZONE AMENDMENT.

5.01 § 5.1. Relationship to federal enterprise zone program.

If any portion of an area designated as an Urban Enterprise Zone by the Governor is included in an area designated as an enterprise zone by an agency of the federal government, the area designated by the Governor shall be enlarged to include the area designated by the federal agency.

5.02 § 5.2. Amendment of approved applications.

A local governing body will be permitted to request amendments to approved applications for zone designation will be permitted in accordance with the following procedures and requirements provided that the amendments relate to local program incentives or to expansions of zone boundaries .

5.02.01 Permitted Amendments - A local governing body may request amendments to its approved application for zone designation provided that the amendments relate to local program incentives. Changes in zone boundaries will not be permitted, except as provided for in Section 5.01.

5.02.02 A. Local public hearing on proposed amendment - The local governing body must hold at least one public hearing on the requested amendment prior to its submission to the department.

5.02.03 B. Submission of a request for an amendment - A request for an amendment must be submitted to the department on Form UEZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the local governing body held the public hearing required in ~~Section 5.02.02~~ § 5.2A . a. In the case of a joint application, a request for an amendment must be completed by the jurisdiction serving as program administrator and must be accompanied by a copy(ies) of Form UEZ-2-JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.

C. Limit on applications for amendments to expand zone boundaries - The first application for an amendment to expand zone boundaries may be submitted at any time. Thereafter, only one application for an amendment to expand zone boundaries will be permitted every four

years.

D. Eligibility criteria for amendments to expand zone boundaries - A proposed boundary amendment must meet the following requirements:

- 1. Contiguous area - The area proposed for expansion must be contiguous to the existing zone.*
- 2. Distress criteria - The enlarged zone must meet at least one of the distress criteria outlined in § 3.2B of the program regulations.*

E. Boundary amendment size - The enlarged zone shall not exceed the maximum size guidelines outlined in § 3.2C of the program regulations. A zone boundary amendment may not consist of a site for a single business firm or be less than 10 acres.

5.02.04 F. Approval of an amendment - The department will approve a request an amendment to local incentives only if the proposed local incentives in the amended application are equal or superior to those in the application prior to the proposed amendment. The department will approve an amendment to expand zone boundaries only if the proposed amendment is deemed to be justified in the opinion of the department.

G. Notification of denial - A local governing body that is denied either a boundary or local incentive amendment shall be provided with the reasons for denial.

PART VI.

6.00 PROCEDURES FOR ZONE TERMINATION.

~~6.01~~ § 6.1. Failure to provide local program incentives.

If a local governing body or its assigned agent(s) is unable or unwilling to provide any of the approved local program incentives, the following procedures will apply. In the case of joint applications, these procedures will apply if either local governing body or its assigned agent(s) is unable or unwilling to provide approved local incentives.

~~6.01.01~~ A. Notification - A local governing body must notify the department in writing within 30 days of any inability or unwillingness to provide an approved local program incentive.

~~6.01.02~~ B. Request for an amendment - A local governing body will have 60 days after submission of the notice required in ~~Section 6.01.01~~ § 6.1A to request an amendment to its application. Such a request shall be filed in accordance with the procedures set forth in ~~Section 5.02.03~~ § 5.2C .

~~6.01.03~~ C. Departmental review - The department will review requests for amendments in accordance with the criterion set forth in ~~Section 5.02.04~~ § 5.2F . a. Approval of an amendment will allow a zone to continue in operation. b. If a local governing body fails to provide

notice as set forth in ~~Section 6.01.01~~ § 6.1A , or has its request for an amendment denied, then the department may recommend to the secretary that the zone be terminated.

~~6.01.04~~ D. Secretarial review of recommendation for zone termination - The secretary, upon review of the department's recommendation, may recommend that the Governor terminate the zone.

~~6.02~~ § 6.2. Zone termination.

A zone shall be terminated in accordance with the procedures set forth in ~~Section 6.01~~ § 6.1 upon written notice to a local governing body. The date of such notice is considered to be the date of zone termination.

~~6.02.01~~ A. Continued availability of state tax incentives to previously qualified business firms - Qualified business firms located in a terminated zone may continue to request state tax incentives provided under this program for any remaining taxable years in the five-year period for which they are eligible.

~~6.02.02~~ B. Limits on business firm qualification - After the date of zone termination, no additional business firms may become qualified to receive state tax incentives provided under this program.

PART VII.

7.00 ADMINISTRATIVE REQUIREMENTS.

~~7.01~~ § 7.1. Sale of surplus public land.

The Commonwealth and any unit of local government that owns land within the zone ~~must~~ shall: (i) upon designation of a zone, identify any surplus land and within six months make such land available for sale; and 2- (ii) update annually its list of surplus land and make available for sale within six months any newly identified surplus parcels. a. The department may waive this requirement only if the owner can demonstrate to the department's satisfaction that the land cannot be developed due to its size, configuration, topography, location or other relevant factors.

~~7.01.01~~ A. Conditions on the sale of public land - The Commonwealth or any unit of local government that sells surplus land within a zone shall require the buyer to develop the land within a period not to exceed five years. This requirement of the buyer must be enforceable by the seller. a. The Commonwealth or any unit of local government that sells surplus land within a zone may set any additional conditions upon the sale which it considers to be necessary to assure that the land is developed in a manner consistent with the purpose of the program (See ~~Section 4.03~~ § 2.3) and the local development objectives outlined in the application for zone designation. If the land is not sold within five years, such conditions shall be revised as necessary to make the land marketable.

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~~7-01-02~~ **B. Monitoring of compliance** - In order to monitor compliance with the requirements of ~~Section 7-01 § 7.1~~, the department will request annually from local governing bodies and state agencies with responsibility for overseeing the disposition of surplus state land, information concerning the identification and sale of surplus land. ~~a.~~ A local governing body shall document compliance with ~~Section 7-01 § 7.1~~ in its annual report to the department (see ~~Section 7-03 § 7.3~~). ~~b.~~ The department shall request annually from the Division of Engineering and Buildings of the Virginia Department of General Services and from the Virginia Department of Highways and Transportation, lists of surplus state land within zones and actions taken to sell such land.

~~7-02~~ § 7.2. Survey of zone business conditions.

Within 90 days following the date of zone designation, a local governing body shall conduct a survey of existing zone business conditions to serve as a basis for program evaluation. ~~a.~~ Survey data shall be submitted to the department on Form UEZ-3-S. ~~b.~~ The survey shall include information on business and employment conditions in the zone as requested on Form UEZ-3-S.

~~7-03~~ § 7.3. Annual report.

A local governing body shall submit annual reports to the department for the purpose of program monitoring and evaluation. ~~a.~~ Annual reports shall be submitted to the department on Form UEZ-3-AR, within 90 days of the anniversary date of zone designation. ~~b.~~ Annual reports shall include information documenting the local governing body's compliance with ~~Section 7-01 § 7.1~~ and data for the purpose of program evaluation as requested on Form UEZ-3-AR. Annual reports shall also include an evaluation of the program's success in achieving identified local development objectives.

PART VIII.

8-00 BUSINESS FIRM REQUIREMENTS.

~~8-01~~ § 8.1. Requirements for becoming a qualified business firm.

In order to become qualified for the purpose of receiving state tax incentives, a business firm must meet the requirements of ~~Section 8-01-01 § 8.1A~~ or ~~8-01-02 § 8.1B~~.

~~8-01-01~~ **A. Requirements for new firms** - A business firm which begins the operation of a trade or business within a zone after the date of zone designation must meet the following requirements: ~~1.~~ (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; and ~~2.~~ (ii) at least 40% of the average number of full-time employees of its zone establishment(s) must be low-income persons.

~~8-01-02~~ **B. Requirements for existing firms** - A business

firm which is engaged in the conduct of a trade or business in a zone at the time of zone designation must meet the following requirements: ~~1.~~ (i) at least 50% of its gross receipts earned during the taxable year for which state tax incentives are requested must be attributable to trade or business conducted within the zone; ~~2.~~ (ii) the average number of full-time employees of its zone establishment(s) must be at least 10% greater than the average for the base taxable year; and ~~3.~~ (iii) at least 40% of such increase must be low-income persons.

~~8-02~~ § 8.2. Prohibition of duplicate government assistance.

A business firm may not use the same expense to qualify for state tax incentives under this program as is used to qualify for state tax incentives under any other program.

PART IX.

9-00 BUSINESS FIRM PROCEDURES.

~~9-01~~ § 9.1. Procedures for becoming a qualified business firm.

In order to become qualified for the purpose of receiving state tax incentives under this program, a new business firm must submit to the department Form UEZ-4N stating that it meets the requirements of ~~Section 8-01-01 § 8.1A~~. An existing business firm must submit Form UEZ-4E stating that it meets the requirements of ~~Section 8-01-02 § 8.1B~~. These forms must be prepared by an independent certified public accountant (CPA) licensed by the Commonwealth.

~~9-01-01~~ **Prima Facie Evidence A. Proof of qualification** - Form UEZ-4N or Form UEZ-4E, when completed and signed by an independent CPA, shall be prima facie evidence that a business firm is qualified to receive state tax incentives.

~~9-01-02~~ **B. Determination of employee low-income status** - In determining whether a business firm meets the requirements of ~~Section 8-01-01 § 8.1A~~ or ~~8-01-02 § 8.1B~~, an independent CPA may accept a signed statement from an employee affirming that he meets the definition of a low-income person.

~~9-01-03~~ **C. Annual submission of form** - A business firm must submit either Form UEZ-4N or Form UEZ-4E for each year in which state tax incentives are requested. ~~a.~~ Form UEZ-4N or Form UEZ-4E must be submitted to the department no later than 30 calendar days prior to the firm's normal or extended deadline for filing a return for state corporate income tax, state individual income tax, state franchise or license tax on gross receipts, or state franchise tax on net capital.

~~9-01-04~~ **D. Certification by the department** - Within 14 calendar days of receipt of Form UEZ-4N or Form UEZ-4E, the department will:

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1. Review the form;

2. Certify to the Commissioner of the Virginia Department of Taxation, or in the case of public service companies to the Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax credits requested by the firm; and

3. Forward three copies of the certification to the firm (one copy for the firm's records and two copies to be filed with the applicable state tax returns) or notify the firm that it fails to qualify for state tax incentives under ~~Section 8-00~~ PART VIII .

9.01.05 E. Submission of state tax returns - A business firm, upon receipt from the department of copies of the certificate of its qualification to receive state tax incentives, may file the applicable state tax returns. *a.* In order for the Virginia Department of Taxation or the State Corporation Commission to grant the credit or refund requested, the appropriate copy of the certificate of qualification must be attached to firm's tax return.

When a partnership or small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code requests a credit(s) against state individual income tax on behalf of its partners or shareholders, each partner or shareholder must attach to its state individual income tax return a photocopy of the appropriate certificate of qualification received by the firm.

9.01.06 F. Five-year limit for receiving state tax incentives - A business firm may receive state tax incentives for only five consecutive taxable years beginning with the first taxable year in which the firm qualifies. If a firm fails to become qualified for any taxable year during this five-year period, it forfeits the right to request state tax incentives for that year. However, the firm is eligible to become qualified for any remaining taxable years of its five-year cycle.

9.01.07 G. Prohibition on requalification due to reorganization of a firm - A business firm may not qualify for state tax incentives for more than five consecutive taxable years by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

9.02 § 9.2. Procedures for requesting state tax incentives.

A business firm shall submit annually to the department, along with Form UEZ-4N or Form UEZ-4E, a statement requesting one or more of the state tax incentives provided for in this section. *a.* In the case of a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code, the statement requesting state tax incentives shall include the name, address and social security number of each partner or shareholder requesting a credit(s) against

state individual income tax as provided for in ~~Section 9.02.02 § 9.2B .~~

9.02.01 A. State corporate income tax credits - A qualified business firm subject to tax under ~~Article 7-4, Chapter 4, Title 58, Article 10, Chapter 3, Title 58.1, of the Code of Virginia (1950); as amended~~ , may request credits against any such tax due. *a.* Corporate income tax credits shall not extend for more than five consecutive tax years. *b.* The sum of the corporate income tax credits claimed under this section shall not exceed the business firm's state corporate income tax liability. *e.* Corporate income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside a zone shall allocate and apportion its taxable income attributable to the conduct of business in accordance with the procedures contained in §§ ~~58-151.034 58.1-406 through 58-151.050; 58.1-420 of the Code of Virginia (1950); as amended~~ .

9.02.01.01 1. General credit - A credit may be claimed against corporate income tax liability for each of five consecutive tax years in an amount equaling:

- a.* 80% of the tax due for the first tax year;
- b.* 60% of the tax due for the second tax year;
- c.* 40% of the tax due for the third tax year; and
- d.* 20% of the tax due for the fourth and fifth tax years.

a. An unused tax credit may not be applied to future tax years.

9.02.01.02 2. Unemployment tax credit - A credit may be claimed against corporate income tax liability for each of five consecutive tax years in an amount equaling:

- a.* 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b.* 60% of such tax due for the second tax year;
- c.* 40% of such tax due for the third tax year; and
- d.* 20% of such tax due for the fourth and fifth tax years.

a. An unemployment tax credit may only be claimed against the amount of taxable corporate income remaining after the subtraction of any general credit claimed under ~~Section 9.02.01.01 § 9.2A(1)~~ . An unused employment tax credit may be applied to future tax years within the five-year period established by this section.

9.02.02 B. State individual income tax credits - A

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qualified business firm which is subject to state individual income tax may request credits against any such tax due. **a.** Individual income tax credits shall not extend for more than five consecutive tax years. **b.** The sum of the individual income tax credits claimed under this section shall not exceed the business firm's state individual income tax liability. **c.** When a partnership or a small business corporation electing to be taxed under Subchapter S of the Federal Internal Revenue Code is eligible for this tax credit, each partner or shareholder may request the credit on his individual income tax in proportion to the amount of income received by that partner from the partnership, or shareholder from his corporation, respectively. **d.** Individual income tax credits shall apply only to taxable income attributable to the conduct of business within a zone. A business firm having taxable income from business activity both inside and outside the zone shall allocate and apportion its taxable income attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ ~~58-151.034~~ ~~58.1-406~~ through ~~58-151.050~~; ~~58.1-420~~ of the Code of Virginia (1950); as amended .

~~9.02.02.01~~ 1. General credit - A credit may be claimed against individual income tax liability for each of five consecutive tax years in an amount equaling:

- a. 80% of the tax due for the first tax year;
- b. 60% of the tax due for the second tax year;
- c. 40% of the tax due for the third tax year; and
- d. 20% of the tax due for the fourth and fifth tax years.

a. An unused tax credit may not be applied to future tax years.

~~9.02.02.02~~ 2. Unemployment tax credit - A credit may be claimed against individual income tax liability for each of five consecutive tax years in an amount equaling:

- a. 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b. 60% of such tax due for the second tax year;
- c. 40% of such tax due for the third tax year; and
- d. 20% of such tax due for the fourth and fifth tax years.

a. An unemployment tax credit may only be claimed against the amount of taxable individual income remaining after the subtraction of any general credit claimed under ~~Section 9.02.02.01~~ § 9.2B(1) . An unused employment tax credit may be applied to future tax years within the

five-year period established by this section.

~~9.02.03~~ C. Credits against state franchise or license tax on gross receipts - A qualified business firm which is subject to state franchise tax on gross receipts or state license tax on gross premium receipts may request a credit against any such tax due. **a.** Credits against state franchise or license tax on gross receipts shall not extend for more than five consecutive tax years. **b.** The sum of the credits against state franchise or license tax on gross receipts claimed under this section shall not exceed the business firm's state franchise or license tax liability. **c.** Credits against state franchise or license tax on gross receipts shall apply only to taxable gross receipts attributable to the active conduct of trade or business within a zone. A business firm having taxable gross receipts from business activity both inside and outside the zone shall allocate and apportion its taxable gross receipts attributable to conduct of business in accordance with the procedures outlined in ~~Section 2.02.09~~; the definition for "gross receipts attributable to the active conduct of a trade or business within an Urban Enterprise Zone".

~~9.02.03.01~~ 1. General credit - A credit may be claimed against tax liability on gross receipts for each of five consecutive tax years in an amount equaling:

- a. 80% of the tax due for the first tax year;
- b. 60% of the tax due for the second tax year;
- c. 40% of the tax due for the third tax year; and
- d. 20% of the tax due for the fourth and fifth tax years.

a. An unused tax credit may not be applied to future tax years.

~~9.02.03.02~~ 2. Unemployment tax credit - A credit may be claimed against tax liability on gross receipts for each of five consecutive tax years in an amount equaling:

- a. 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b. 60% of such tax due for the second tax year;
- c. 40% of such tax due for the third tax year; and
- d. 20% of such tax due for the fourth and fifth tax years.

a. An unemployment tax credit may only be claimed against the amount of the taxable gross receipts remaining after the subtraction of any general credit claimed under ~~Section 9.02.03.01~~ § 9.2C(1) . An unused unemployment tax credit may be applied to future tax years within the five-year period established by this section.

9-02-04 D. Credits against state franchise tax on net capital - A qualified business firm which is subject to state franchise tax on net capital may request credits against any such tax due. **a.** Credits against state franchise tax on net capital shall not extend for more than five consecutive tax years. **b.** The sum of the credits against state franchise tax on net capital claimed under this section shall not exceed the business firm's state franchise tax liability. **e.** Credits against state franchise tax on net capital shall apply only to taxable net capital attributable to the active conduct of business within a zone. A business firm having taxable net capital arising from business activity both inside and outside the zone shall allocate and apportion its net capital attributable to conduct of business in accordance with the same procedures set forth for corporations subject to corporate income tax, as contained in §§ ~~58-151-034~~ *58.1-406* through ~~58-151-050~~ *58.1-420* of the Code of Virginia (1950); as amended .

9-02-04-01 1. General credit - A credit may be claimed against tax liability on net capital for each of five consecutive tax years in an amount equaling:

- a. 80% of the tax due for the first tax year;
- b. 60% of the tax due for the second tax year;
- c. 40% of the tax due for the third tax year; and
- d. 20% of the tax due for the fourth and fifth tax years.

a. An unused tax credit may not be applied to future tax years.

9-02-04-02 2. Unemployment tax credit - A credit may be claimed against tax liability on net capital for each of five consecutive tax years in an amount equaling:

- a. 80% of the state unemployment tax due on employees of zone establishments for the first tax year;
- b. 60% of such tax due for the second tax year;
- c. 40% of such tax due for the third tax year; and
- d. 20% of such tax due for the fourth and fifth tax years.

a. An unemployment tax credit may only be claimed against the amount of taxable net capital remaining after the subtraction of any general credit claimed under ~~Section 9-02-04-01~~ § *9.2D(1)* . An unused employment tax credit may be applied to future tax years within the five-year period established by this section.

9-02-05 E. State sales and use tax exemption - A qualified business firm may request an exemption from state taxes on all items purchased or leased for the conduct of trade or business within a zone as required

under §§ 58-441.1, 58.1-600 et seq. ; of the Code of Virginia (1950); as amended . This exemption applies only to the state portion of the sales and use tax and not to any portion of the tax levied under local option. **a.** A business firm in its statement to the department requesting an exemption shall specify the amount of state sales and use tax actually paid during the year for which the exemption is claimed. The Virginia Department of Taxation shall review the amount requested and make an appropriate refund to the firm. **b.** State sales and use tax exemptions shall not extend for more than five consecutive tax years.

9-02-06 F. Notification to localities of requests for state tax incentives - The department shall forward to the local governing body of the jurisdiction in which the zone is located: **1.** (i) a copy of the business firm's statement requesting state tax incentives; and **2.** (ii) the department's determination that the firm is qualified or not qualified to receive such incentives in accordance with the requirements of ~~Section 8-00~~ *PART VIII* .

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: **VR 400-02-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons of Low and Moderate Income.**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: October 15, 1985

NOTICE

Documents and forms referred to as exhibits have not been adopted by the authority as a part of the Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

Summary:

Under the current provisions of the Authority's Procedures, Instructions and Guidelines, maximum allowable sales prices and maximum allowable adjusted incomes are established for the Northern Virginia portion of the Washington, DC-MD-VA MSA, the Norfolk-Virginia Beach-Newport News MSA and the

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remainder of the state. In order to reflect the increased housing costs and incomes of low and moderate income persons and families, the regulations will make certain increases in the maximum allowable sales prices and maximum allowable adjusted incomes for those areas.

The regulations will also establish maximum allowable sales prices and maximum allowable adjusted incomes for additional areas of the state designated together as North Piedmont/Richmond-Petersburg MSA/ Roanoke MSA. Under current provisions of the Authority's Procedures, Instruction and Guidelines, these areas are within the area designated as the remainder of the state. This change is made in recognition of the higher costs of housing and the higher incomes in these areas as compared with the remainder of the state.

VR 400-02-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons of Low and Moderate Income.

PART I. GENERAL.

§ 1.1. The following procedures, instructions and guidelines will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have an "adjusted family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation established by the authority. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit established by the authority. Such income and sales price limitations shall be set forth in the Processing and Disbursing Guide described in § 1.2 C hereof.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these procedures, instructions and guidelines where deemed appropriate by him for good cause, to the extent not inconsistent with the authority's act, rules and regulations, and covenants and agreements with the holders of its bonds.

"Executive director" as used herein means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

All reviews, analyses, evaluations, inspections,

determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The procedures, instructions and guidelines set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's single family housing program. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines adopted by the authority from time to time.

§ 1.2. Processing/disbursing/servicing agents.

A. The processing of applications for the making or financing of mortgage loans hereunder, the disbursement of proceeds of mortgage loans and the servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as Processing/Disbursing/Servicing Agents ("PDS agents") of the authority. To be initially approved as PDS agents, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a satisfactory rating from any state and/or federal agencies responsible for the regulation of the applicant;
3. Have a net worth equal to or in excess of \$100,000 or, in the case of a savings and loan association, have its deposits insured by the Federal Savings and Loan Insurance Corporation;
4. Have aggregate servicing and originating volume during the preceding five years at least equal to 10 times the principal amount of loans expected to be initially serviced and originated for the authority;
5. Have a staff with demonstrated ability and experience in mortgage loan origination and servicing;
6. Each branch office of the applicant that is to originate mortgage loans must have demonstrated experience in the origination of mortgage loans;
7. Have a delinquency rate on its portfolio of serviced mortgage loans not in excess of 5.1%;
8. Have a foreclosure rate on portfolio of serviced mortgage loans not in excess of 1.0% annually;

9. Have reasonable business hours - i.e. be open to the public at least five hours every banking day; and

10. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

If the applicant is to originate (but not service) mortgage loans, the applicant must satisfy the qualification set forth in (4) and (5) above only with respect to the origination of mortgage loans.

All PDS agents approved by the authority shall enter into Processing/Disbursing/Servicing Agreements ("PDS agreements") with the authority containing such terms and conditions as the executive director shall require with respect to the processing, disbursing and servicing of mortgage loans hereunder. The PDS agents shall maintain adequate books and records with respect to such mortgage loans, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the PDS agent for originating and servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the PDS agreements.

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to PDS agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any PDS agents, state and local governmental agencies and instrumentalities, builders, or other persons and

entities (other than mortgage loan applicants) who are to receive an allocation; and

5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Processing and Disbursing Guide and Servicing Guide.

The Processing and Disbursing Guide attached hereto as Part II is incorporated into and made a part of these procedures, instructions and guidelines. The executive director is authorized to prepare and from time to time revise a Servicing Guide which shall set forth the accounting and other procedures to be followed by the PDS agents in the servicing of the mortgage loans under the PDS agreements. Copies of the Servicing Guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the Processing and Disbursing Guide and the Servicing Guide.

D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and

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services of its PDS agents and (ii) agree to purchase individual mortgage loans from its PDS agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the PDS agreement, the Processing and Disbursing Guide, the Servicing Guide and the authority's act and rules and regulations.

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's PDS agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to PDS agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the PDS agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the PDS agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the authority's act and rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under

which PDS agents may qualify for such delegation. If such delegation has been made, the PDS agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the Processing and Disbursing Guide, the PDS agreement or the authority's act or rules and regulations, he may require the PDS Agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

PART II.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING AND DISBURSING GUIDE.

Article I.

Eligibility Requirements.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible, but the authority will restrict the number of loans that the PDS agent can originate for such persons and has established sales price limits for such households. An individual who is 62 or more years of age or who is handicapped or disabled shall not be deemed a one-person household for these purposes.

B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

1. Allocation to one-person households.

The maximum number of one-person households will be limited to 17% of all units financed. Units will be allocated by planning district with each planning district to receive funds based on its relative need. Allocation of one-person households to PDS agents and builders will be made based upon the dollar amount of their allocation and geographical location. The maximum number of one-person households allowed will be specified in the Forward Commitment Agreement and Builder Commitment Agreement.

§ 2.2. Compliance with certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.

The federal Mortgage Subsidy Bond Tax Act of 1980 imposes certain new requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with this federal law, VHDA is establishing certain procedures which must be performed by the PDS agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The PDS agent will

certify to the performance of these procedures and evaluation of a borrower's eligibility by completing, initialing and signing the "Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980" (the "checklist") (Section II, Exhibit A) prior to VHDA approval of each loan. No loan will be approved by VHDA unless all of the federal eligibility requirements are met as well as the usual VHDA requirements set forth in other parts of this guide.

§ 2.2.1. Eligible borrowers.

A. General.

An applicant will be considered an eligible borrower for a VHDA mortgage loan, if the applicant meets all of the following federal criteria:

1. Has not had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan. (See B. Three-year requirement);
2. Agrees to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See C. Principal residence requirement);
3. Will not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See D. New mortgage requirement);
4. Has contracted to purchase an eligible dwelling. (See § 2.2.2. Eligible dwelling);
5. Has executed a borrower affidavit at the time of loan application (to be confirmed on the date of loan closing); and
6. Agrees not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan without the prior written consent of VHDA.

B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the borrower affidavit that at no time during the three years preceding the execution of the mortgage loan has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3. "Targeted areas"); however, even if the residence is located in a "targeted area," the prior tax returns described in 3. below must be obtained

for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

- a. A fee simple interest,
- b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
- c. The interest of a tenant shareholder in a cooperative,
- d. A life estate,
- e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and
- f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a "Present ownership interest" include:

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,
- c. A mere expectancy to inherit an interest in a principal residence,
- d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and
- e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the PDS agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three years preceding execution of the mortgage or certified copies of the returns. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return for such year is waived.

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The PDS agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by PDS agent. The PDS agent must, with due diligence, verify the representations in the borrower affidavit regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to VHDA that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. Principal residence requirement.

1. General. An eligible borrower must intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from VHDA. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of rehabilitation loan) after the closing of the mortgage loan on the borrower affidavit and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the borrower affidavit that, among other thing:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land

financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres even in rural areas.

5. Review by PDS agent. The borrower affidavit must be reviewed by the PDS agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the PDS agent shall review the appraiser report of a VHDA-approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the PDS agent shall certify to its opinions in the checklist at the time the loan application is submitted to VHDA for approval.

6. Post-closing procedures. The PDS agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify VHDA if such addresses are not the same. Subject to VHDA's approval, the PDS agent may establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes

and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan made to refinance a loan for the construction of an eligible dwelling, VHDA shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by PDS agent. Prior to closing the mortgage loan, the PDS agent must examine the borrower affidavit, the seller affidavit, and related submissions, including: (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the PDS agent shall certify to VHDA that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

Any eligible borrower may not have more than one outstanding VHDA mortgage loan.

§ 2.2.2. Eligible dwellings.

A. General.

In order to qualify as an eligible dwelling for which a VHDA loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of a VHDA approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases such federal limits equal or exceed the VHDA sales price limits shown in § 2.4. Therefore, the residence is an eligible dwelling if the acquisition cost is not greater than the VHDA sales price limit. In the event that the acquisition cost exceeds the VHDA sales price limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling.

2. Definition of acquisition cost. Acquisition cost means

the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Section II Exhibit G, Item 4).

(3) Where the eligible dwelling is subject to a ground rent, the capitalized value of any ground rent calculated using a discount rate equal to the yield of the VHDA bonds from which the mortgage loan was made. VHDA will supply bond yield information to PDS agents on request for the purpose of calculating capitalized ground rent.

(4) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be

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treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

3. Acquisition cost worksheet. The PDS agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this Subsection B. The PDS agent shall assist the eligible borrower in the correct completion of the worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the borrower affidavit required to be submitted with the loan submission. The seller affidavit shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

4. Review by PDS agent. The PDS agent shall determine that the acquisition cost of the eligible dwelling does not exceed the authority's sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling. As part of its review, the PDS agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to VHDA that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this Subsection B. In addition, the PDS agent must compare the information contained in the acquisition cost worksheet with the information contained in the seller affidavit and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

5. Independent appraisal. VHDA reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.3. Targeted areas.

A. General.

In accordance with the Mortgage Subsidy Bond Tax Act of 1980, VHDA will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. VHDA will exercise due diligence in making mortgage loans in targeted areas by advising PDS agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to a PDS agent exclusively for targeted areas will be specified in the Forward

Commitment Agreement.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement in § 2.2.1 B.

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in (1) below, or an area of chronic economic distress, as described in (2) below.

(1) A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury. Maps indicating the location of current qualified census tracts will be supplied to the PDS agents by VHDA.

(2) An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the Mortgage Subsidy Bond Tax Act of 1980. PDS agents will be informed by VHDA as to the location of areas so designated.

§ 2.4. Sales price limits.

The authority's maximum allowable sales prices shall be as follows:

MAXIMUM ALLOWABLE SALES PRICES

Applicable to all bond issues except 1981A (13.7%), 1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)*

	New Construction	Substantial Rehabilitation	Existing
<i>Northern Virginia portion of Washington, DC-MD-VA MSA</i>			
1/	\$104,200**	\$104,200**	\$90,300 **
<i>Norfolk-Virginia Beach-Newport News MSA</i>			
2/	\$78,500	\$78,500	\$68,300
<i>North Piedmont/Richmond-Petersburg MSA/Roanoke MSA</i>			
3/	\$71,000	\$71,000	\$67,500
<i>Remainder of State</i>			
4/	\$61,100	\$61,100	\$56,500

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1/ Includes: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Hampton City, Newport News City, Poquoson City, Williamsburg City, Gloucester County, James City County, York County.

3/ *Richmond-Peterburg MSA includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.*

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

3/ 4/ Any jurisdiction not a part of the *Northern Virginia portion of the Washington, DC-MD-VA MSA or the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/Roanoke MSA.*

* NOTE: For information regarding maximum allowable sales prices of residences financed by the 1981A (13.7%), 1982A (13.85%) or "blend" of 1982A and 1982B (11.75%), please contact the VHDA Staff.

** For mortgage loans to be financed by 1980 Series B Bonds (12.5%) or by any of the Residential Mortgage Bonds (10.42%, 10.67%, 10.84%, 10.77% and 10.61%) issued prior to 1985, the maximum allowable sales prices for new construction and substantial rehabilitation shall be \$104,200 and for existing shall be \$90,300.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence."

§ 2.5. Net worth.

To be eligible for VHDA financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of adjusted income over \$20,000.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

§ 2.6. Income requirements.

A. Maximum income.

The maximum adjusted incomes for eligible borrowers shall be as follows:

MAXIMUM ALLOWABLE ADJUSTED INCOMES

Applicable to all bond issues except 1981A (13.7%), 1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)*

	New Construction	Substantial Rehabilitation	Existing
<i>Northern Virginia portion of Washington, DC-MD-VA MSA</i>			
1/	\$41,200**	\$41,200**	\$36,500**
<i>Norfolk-Virginia Beach Newport News MSA</i>			
2/	\$34,300	\$34,300	\$29,000
<i>Northern Piedmont/Richmond-Petersburg MSA/Roanoke MSA</i>			
3/	\$29,900	\$29,900	\$28,700
<i>Remainder of State</i>			
4/	\$29,400	\$29,400	\$27,200

1/ Includes: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Hampton City, Newport News City, Poquoson City, Williamsburg City, Gloucester County, James City County, York County.

3/ *Richmond-Petersburg MSA includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.*

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline

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County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

3/ 4/ Any jurisdiction not a part of the Northern Virginia portion of the Washington, DC-MD-VA-MSA or the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/Roanoke MSA .

* NOTE: For information regarding the maximum allowable adjusted incomes of persons or families acquiring residences financed by 1981 Series A (13.7%), 1982 Series A (13.85%) and "blend" of 1982A and 1982B (11.75%), please contact the VHDA staff.

** For mortgage loans to be finished by 1980 Series B Bonds (12.5%) or by any of the Residential Mortgage Bonds (10.42%, 10.67%, 10.84%, 10.77%, and 10.61%) issued prior to 1985, the maximum allowable adjusted incomes for new construction and substantial rehabilitation shall be \$49,200 and for existing shall be \$43,400.

B. Minimum income.

An applicant is eligible for VHDA financing if the monthly principal and interest, tax, insurance (PITI) and other additional monthly fees such as condominium assessments, townhouse assessments, etc. do not exceed 32% of monthly gross income. Also, the applicant is eligible when monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income. (See Section II, Exhibit B)

§ 2.7. Calculation of loan amount.

Single family detached residence and townhouse (fee simple ownership) - Maximum of 95% of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - 95% of the sales price or appraised value, whichever is less.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) Also, the value of personal property included in the appraisal must be deducted from the appraised value. (See Appraiser Report, Section II, Exhibit H.)

§ 2.8. Mortgage insurance requirements.

Unless the loan is insured or guaranteed by FHA or VA, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on all loans

which exceed 80% of the lesser of sales price or appraised value. The PDS agent is required to escrow for annual payment of mortgage insurance. If VHDA requires FHA or VA insurance, the loan will be closed in the PDS agent's name and purchased by VHDA once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event VHDA purchases an FHA or VA insured loan, the PDS agent must enter into a purchase and sale agreement. (See Section II, Exhibit C.)

§ 2.9. Underwriting.

A. Employment and income.

B. Length of employment.

1. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by VHDA if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

C. Self-employed applicants.

1. Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. The following information is required at the time of application:

- a. Federal income tax returns for the two most recent tax years.
- b. Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

D. Income derived from sources other than primary employment.

E. Alimony and child support.

1. A copy of the legal document and sufficient proof must be submitted to VHDA verifying that alimony and child support are court ordered and are being received.

F. Social security and other retirement benefits.

Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

G. Part-time employment.

Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

NOTE: Under the Mortgage Subsidy Bond Tax Act of 1980, no part of the residence may be used in a trade or business.

H. Overtime, commission and bonus.

Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

I. Credit.

VHDA requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain a VHDA loan.

J. Bankruptcies.

An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy. VHDA has complete discretion to decline a loan when a bankruptcy is involved.

K. Judgments.

An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for a VHDA loan.

§ 2.10. Funds necessary to close.

A. Cash.

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. VHDA does not permit the applicant to borrow funds for this purpose. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.11. Loan assumptions, leasing, terms and owner occupancy.

A. Loan assumptions.

VHDA does not currently permit loan assumptions, except that loan assumptions shall be permitted with respect to mortgage loans financed from the proceeds of the authority's single-family bonds issued on or after December 17, 1981, (loans numbered 40,000 and on) if the requirements set forth in § 2.2.1 B and C and § 2.2.2. B herein are satisfied and if the assumption satisfies the VHDA underwriting criteria set forth herein. Such policy of permitting loan assumptions is subject to change at any time without notice by the authority in its discretion.

B. Leasing.

The owner may not lease the property without VHDA's prior written consent.

C. Loan term.

Loan terms may not exceed 30 years.

D. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ 2.12. Preparation of application package.

A. The application package submitted to VHDA for approval must contain the following:

1. Reservation card.
2. Application - the application must be made on Virginia Housing's approved application form.
3. Preliminary underwriting form.
4. Credit report issued by local credit bureau and

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miscellaneous information as applicable - explanation of bankruptcies, etc., (and any additional documentation).

5. Verification of employment (and any additional documentation).

6. Verification of other income.

7. Verification of deposits (and any additional documentation).

8. Gift letters (and verification).

9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.

10. Appraisal (FHLMC No. 70) - form should be FNMA or FHLMC and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to Virginia Housing or who has a certification from a trade organization approved by Virginia Housing (photos and required supporting documentation).

11. Loan submission cover letter.

12. Appraiser's report.

13. Acquisition cost worksheet.

14. Affidavit of seller.

15. Affidavit of borrower.

16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 10 in the affidavit of borrower. (NOTE: If a letter from the IRS is to be delivered pursuant to paragraphs § 2.2.1 B3 of the Processing, Disbursing Guide, such letter must be enclosed herewith).

17. Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.

18. Signed request for copy of tax returns (No. 4506).

19. HUD information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), and Regulations Z (Truth-In-Lending) as amended April 1, 1981. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

20. ECOA notice statement to borrower of provisions

of the Equal Credit Opportunity Act, with borrower's acknowledgement of receipt.

21. Truth-in-lending disclosure.

After the application package has been completed, it should be forwarded to:

Single Family Division
Virginia Housing Development Authority
13 South 13th Street
Richmond, VA. 23219

§ 2.13. Commitment.

Upon approval of the applicant, VHDA will send a mortgage loan commitment (see Section II, Exhibit J) to the borrower in care of the agent. Also enclosed in this package will be other documents necessary for closing. The PDS agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the agent. A commitment must be issued in writing by an authorized officer of VHDA and signed by the applicant before a loan may be closed.

§ 2.13.1. Loan rejection.

If the borrower fails to meet VHDA underwriting criteria or if the property fails to meet VHDA property standards, a loan rejection letter will be issued by VHDA (see Section II, Exhibit L). If the application is resubmitted, the credit documentation cannot be more than 90 days old and the appraisal more than six months old.

§ 2.14. Loan settlement.

A. Loan closing.

Upon the borrower's acceptance of the mortgage loan commitment, the PDS agent will send VHDA's letter of closing instructions (see Section II, Exhibit N) and the closing papers to the closing attorney. The PDS agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. VHDA will provide the PDS agent with the documents which the closing attorney is required to complete. After VHDA reviews the closing attorney's preliminary work and approves closing, a loan proceeds check will be sent to the closing attorney or firm named in the commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions (see Section II, Exhibit M). Closing attorneys may use loan proceeds checks when in a position to conduct the loan closing and disburse proceeds in accordance with Virginia Housing's letter authorizing the closing and instructions previously issued by the PDS agent. It is the PDS agent's responsibility to see that all

documents and checks are received immediately after loan closings and that they are completed in accordance with Virginia Housing's requirements, Regulation Z and ECOA. A certified or cashier's check is to be provided at loan closing for the buy-down points, if any. The check is to be payable to VHDA. Under the applicable federal regulations the original proceeds of the bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. Payment of buy-down points out of mortgage loan proceeds would be using bond proceeds to pay interest rather than the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds. Buy-down points may not be deducted from loan proceeds.

B. Post-closing requirements.

In accordance with § 9 of the PDS agreement, all post-closing documents, including the post-closing cover letter (see Section II, Exhibit P), should be forwarded as follows to:

Single Family Division
Post-Closing Section
Virginia Housing Development Authority
13 South 13th Street
Richmond, VA. 23219

Within five days after the closing of the loan, the PDS agent must forward the fees, interest and any other money due VHDA, a repayment of VHDA's outstanding construction loan, if any, PMI affidavit and all closing documents except the original recorded deed of trust and title insurance policy.

Within 45 days after loan closing, the PDS agent shall forward to VHDA the original recorded deed of trust and title insurance policy.

During the 120-day period following the loan closing the agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify VHDA if such addresses are not the same or if there is any such change of address. Subject to VHDA's approval, the PDS agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event the agent at any time otherwise becomes aware of the fact that any item noted on the checklist for certain requirements of the Mortgage Subsidy Bond Tax Act may not be correct or proper, the agent shall immediately notify the authority.

§ 2.15. Property guidelines - existing housing.

All existing houses must meet the following minimum requirements; however, each house will be reviewed on a case-by-case basis with regard to marketability and

security of the loan:

1. 100 amp electrical service is required.
2. No space heaters or circulators are allowed; however, a floor furnace or wall furnace is acceptable in a one-story house if such a furnace adequately heats the house.
3. Pier foundations are considered on a case-by-case basis.
4. All property must be located on a state-maintained road with a minimum frontage of 30 feet. No easements or right-of-ways are allowed as access to properties. House should not be located more than 200 feet from the state-maintained road.
5. Joint ownership of well and septic is not allowed and the well must be on the subject property.
6. Any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis.
7. The floor plan must be acceptable with bathrooms and bedrooms centrally located and providing maximum privacy. Primary bathroom locations are not acceptable if the traffic patterns require entrance through another living area (e.g. a bathroom which opens directly into the kitchen).
8. The house must have a sufficient number of bedrooms to properly serve the borrower. Only bedrooms will be used as sleeping quarters, with each bedroom to be occupied by no more than two persons.
9. Mobile homes are not acceptable.

§ 2.16. Property guidelines - New construction.

A. All new homes must meet the Uniform Statewide Building Code (the "Code") and the Department of Housing and Urban Development Minimum Property Standards (MPS) in addition to the following VHDA underwriting requirements:

1. Minimum of 4/12 pitch roof.
2. Storm windows or double glazed windows are required.
3. Insulated exterior doors or storm doors are required.
4. All property must be located on state-maintained roads.
5. Energy package in conformance with FHMA energy standards.

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6. Mobile homes are not acceptable.

B. Also, the following standards are preferred:

1. All ceilings and 75% of the walls be 1/2 inch drywall or plaster.

2. Kitchen cabinets should comply with the following: doors should be a minimum of 5/8 inch and end panels should be a minimum of 1/2 inch thick. Materials should be wood or plywood. All stiles and rails should be of wood. Drawer fronts should be a minimum of 5/8 inch and sides should be a minimum of 3/8 inch wood or plywood, bottoms should be 1/4 inch plywood. Shelves should be a minimum of 5/8 inch wood, plywood or particle board. Plywood and particle board shelves should have edging.

3. Ceiling height of eight feet or greater.

4. Pier foundations are discouraged except where brick or block curtain wall completely covers piers.

5. Insulated sheathing.

6. If vertical siding is used, fir, cedar or redwood is preferred.

7. Fiberglass insulation in ceiling, floor and wall.

8. The use of wood foundations is discouraged unless the type of construction results in substantial savings to be passed on to the buyer.

9. Hardwood floors unless a 30 ounce carpet is used.

§ 2.17. Substantially rehabilitated.

A. For the purpose of qualifying as substantially rehabilitated housing under Virginia Housing's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets VHDA underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The appraisal submitted with the loan application, must list the improvements and estimate the value of the improvements. Virginia Housing's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards.

4. VHDA will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the Mortgage Subsidy Bond Tax Act of 1980, the proceeds of VHDA cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). VHDA will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Policy on condominiums.

1. The PDS agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The PDS agent must submit evidence at the time the borrower's application is submitted to Virginia Housing for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which Virginia Housing has not previously financed the purchase of any units, Exhibit U providing basic information about the condominium must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. Virginia Housing will review the above described form and financial information. If on the basis of such review Virginia Housing finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit U requires that the Unit Owners Association agree to submit to Virginia Housing upon its request, the condominium's annual financial statements, operating budget and other information as Virginia Housing may require. The association is also required to agree that Virginia Housing shall have a right to inspect the condominium and its records. The

form states that failure to comply with the foregoing shall be grounds for Virginia Housing's termination of its approval of the condominium.

3. Each year Virginia Housing will send Exhibit V to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the VA, FNMA and/or FHLMC approvals and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, Virginia Housing may terminate its approval of the condominium. Virginia Housing will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, Virginia Housing will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event Virginia Housing determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of Virginia Housing, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by Virginia Housing.

4. If a condominium is approved by FNMA, Virginia Housing will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, Virginia Housing will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by Virginia Housing and exceeds the foregoing percentage limitations, Virginia Housing will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mines

Title of Regulations: VR 480-05-3. Rules and Regulations Governing the Installation and Use of Automated Temporary Roof Support Systems.

Statutory Authority: § 45.1-104 (b1) of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation provides for automated temporary roof support systems which provide for the safety of the roof bolter during installation of permanent roof supports. This limits or prevents his exposure to the unsupported roof while installing permanent supports. There are no revisions in this review other than those required by the Virginia Register Form, Style and Procedure Manual.

VR 480-05-3. Rules and Regulations Governing the Installation and Use of Automated Temporary Roof Support Systems.

SECTION 1. Definition

PART I. DEFINITIONS.

§ 1. As used in this series: The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

(a) ~~Adopted approved roof control plan~~—The term “~~adopted approved roof control~~” shall mean “*Adopted approved roof control plan*” means the roof control plan and revisions thereof suitable to the roof conditions and mining systems of each coal mine which has been ~~adopted~~ by the mine and approved by the Chief pursuant to Section 45-104, Chapter 11, Mining Laws of Virginia, including Oil and Gas .

(b) ~~Approved~~—the term “~~approved,~~” shall mean “*Approved*” means in strict compliance with mining law, or, in the absence of law, accepted by a recognized standardizing body or organization where approval is generally recognized as authoritative on the subject.

(c) ~~Automated temporary roof support system~~—The term “~~automated temporary roof support system~~” shall mean “*Automated temporary roof support system*” means the devices and mechanisms, including the ATRS, used, and methods followed by which the ATRS is activated and set to support the roof.

(d) ~~Automated temporary roof support or ATRS~~—The term “~~automated temporary roof support~~” or “~~ATRS~~” shall mean “*Automated temporary roof support or ATRS*” means a mechanical device used to support the roof temporarily.

(e) ~~Chief~~—the term “~~Chief~~” shall mean “*Chief*” means the Chief of the Division of Mines and Quarries .

(f) ~~Rebuilt~~—The term “~~rebuilt~~” shall mean “*Rebuilt*” means the performance of service work on any roof bolting machine or continuous mining machine with integral roof drills exceeding sixty (60%) per cent of the new purchase price.

SECTION 2. Time Requirements.

PART II.

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TIME REQUIREMENTS.

(a) § 2.1. After September 1, 1983, all new roof bolting machines and continuous mining machines with integral roof drills used in a working face in a coal mine shall be provided with an approved automated temporary roof support system; provided, other methods of temporarily supporting the roof may be approved by the Chief in the adopted approved roof control plan.

(b) § 2.2. After September 1, 1985, all rebuilt (see (f) in definitions) roof bolting machines and rebuilt continuous mining machines with integral roof drills used in a working face in a coal mine shall be provided with an approved automated temporary roof support system. Provided, that other methods of temporarily supporting the roof may be approved by the Chief in the adopted approved roof control plan.

SECTION 3. Approvals and Waivers

PART III. APPROVALS AND WAIVERS.

(a) § 3.1. An automatic waiver will be granted for those active working sections where the average working height of the section is less than ~~forty-two~~ (42 ") inches.

(b) § 3.2. Automated temporary roof support systems and all other methods of temporarily supporting the roof shall be approved on an individual mine basis by the Chief and shall become part of the adopted approved roof control plan.

After the effective date of these rules and regulations, the operator shall, prior to any automated temporary roof support system being used underground, first obtain approval from the Chief or an authorized representative of the Chief, such approval to be in the manner and form prescribed by the Chief. Provided, that such approval shall not be unreasonably withheld and furthermore, any automated temporary roof support system that has been "approved" prior to the effective date of these regulations shall also be approved by the Chief, or his authorized representative, if the automated temporary roof support system meets the minimum requirements stated in these rules and regulations.

(c) § 3.3. A waiver may be granted, as to the use of an automated temporary roof support system, by the Chief, where it has been demonstrated by the operator and determined during an investigation by an authorized representative of the Chief, that the use of an automated temporary roof support system would create a condition which will cause a greater hazard to people working in the area where permanent supports have been installed, than the method presently being employed or proposed by the operator for temporarily supporting the roof; or, where the technology of an automated temporary roof support system does not exist to allow compliance with the requirements set forth in these rules and regulations. In

granting a waiver as to the use of the automated temporary roof support system, the Chief may approve the use of temporary jacks and posts to be used in lieu thereof.

SECTION 4.

PART IV.

Minimum Requirements for Machines Using, or Used as, Automated Temporary Roof Support Systems.

After the effective date of these rules and regulations, all machines using, or used as, an automated temporary roof support system shall comply with the following minimum requirements unless a waiver has been granted or another method of temporarily supporting the roof has been approved by the Chief under these rules and regulations.

(a) § 4.1. The necessary controls to position the machine and place the ATRS against the roof shall be operated from under permanently supported roof, unless, the design of the system will provide adequate protection for the miner while setting such supports.

(b) § 4.2. The ATRS shall be placed firmly against the roof before any work is performed in by permanent roof supports and shall remain against the roof while work is being done.

(c) § 4.3. All hydraulic jacks affecting the support capacity of an ATRS shall have check valves or equivalent protection to prevent support failure in the event of a sudden loss of hydraulic pressure.

(d) § 4.4. ATRS used in conjunction with single bolt installation are required to elastically support, at a minimum, a deadweight load of 11,250 pounds for each 5 five foot by 5 five foot square area of the roof intended to be supported.

(e) § 4.5. ATRS consisting of pads and/or crossbars used in single or multiple rows must elastically support, at a minimum, a deadweight load in pounds of $450 \times [(L+5) \times (W+5)]$; where L is the length of the support structure from tip to tip and W is the width taken at the centerline of a support structure to the centerline of another support structure.

(f) § 4.6. The actual capacity to support elastically a deadweight load shall be certified by a registered professional engineer, or the manufacturer of such product.

(g) § 4.7. The distance that the ATRS may be set in by the last row of permanent supports shall be dependent on the spacing requirements of the permanent roof supports and must be approved by the Chief in the adopted approved roof control plan.

(h) § 4.8. No person shall work or travel beyond the ATRS unless the distance between the coal face and the

ATRS is five feet or less; in addition, no person shall work or travel left or right of the ATRS unless a coal rib, a permanent support, or a temporary support is within five feet of the ATRS : ~~Provided~~ ; *provided*, that when such five foot limit is being determined for an ATRS consisting of a ring then said five foot limit shall be determined from the outside of the ring.

(†) § 4.9. The inch tram control speed of a roof bolting machine shall not exceed one-half of the maximum tram control speed; provided, that in no case shall the inch tram control speed exceed ~~eighty~~ 80 feet per minute when the roof bolting machine is being used to establish the ATRS.

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0-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

NOTICE OF CORRECTION

10. Company:	11. Mine Index No.:
12. Mine Name/No:	13. Dated:
14. Action to Correct:	
15. Corrected: (a) Date: (b) Time:	

Inspector:
(Signature) _____

ORDER OF CLOSURE



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

1. Date: Mo. Da. Yr.	2. Section of Va. Mining Law:
3. Served To:	4. Operator:
5. Mine Name/No:	6. Mine Index No:
7. Condition or Practice:	
8. Area or Equipment:	
9. Correction Due: (a) Date: (b) Time:	

Inspector:
(Signature) _____

Final Regulations

N-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

NOTICE OF CORRECTION

10. Company:	11. Mine Index No.:
12. Mine Name/No:	13. Dated:
14. Action to Correct:	
15. Corrected: (a) Date: (b) Time:	

Inspector:
(Signature) _____

NOTICE OF VIOLATION



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

1. Date: Mo. Da. Yr.	2. Section of Va. Mining Law:
3. Served To:	4. Operator:
5. Mine Name/No:	6. Mine Index No:
7. Condition or Practice:	
8. Area or Equipment:	
9. Correction Due: (a) Date: (b) Time:	

Inspector:
(Signature) _____

Title of Regulations: VR 480-05-7. Rules and Regulations Governing Disruption of Communications in Mines.

Statutory Authority: § 45.1-104 (b1) of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation provides for greater safety of the underground miner by providing periodic checks and procedures to handle disruptions of the communications system. The regulatory review process produced no change in the regulation.

VR 480-05-7. Rules and Regulations Governing Disruption of Communications in Mines.

**PART I.
GENERAL REQUIREMENTS.**

Section 45.1-81 of the Code of Virginia requires that telephone service or an equivalent two-way communication system be provided between the top and each landing of main shafts and slopes in the mines. The following rules shall apply in the event a disruption of the required communication system occurs.

Rule 1- § 1.1. Mine foremen or their designee shall check the communication system to all sections or part of an underground mine where preparation for or mining is in progress at least once every hour to ascertain if the system is in operation.

Rule 2- § 1.2. In the event there is a disruption or failure in the communication system to any section or part of an underground mine where preparation for or mining is in progress, work is to begin immediately and continue until communications are restored.

Rule 3- § 1.3. If the required communication is not reestablished within one hour (60 minutes) the mine operator shall notify the District Mine Inspector that communication is down, state any circumstances or existing conditions at the mine and advise of estimated time needed to reestablish communication. Based on the information, the Chief shall take whatever action that is indicated which may include immediate inspection and/or ordering withdrawal of workers from the area.

Rule 4- § 1.4. The owner/operator shall advise the Chief Mine Inspector of the Division of Mines, or District Mine Inspector, when communication has been restored.

Rule 5- § 1.5. Whenever a representative of the miners, or a miner where there is no such representative, has reason to believe that conditions are such that continuing to work on section without communication would constitute an imminent danger to safety or health, such miner or

representative shall have the right to notify the Chief Mine Inspector of the Division of Mines or District Mine Inspector of his concern. Upon receipt of such notification, the Chief shall cause an inspection to be made as soon as possible. If the inspection determines that such danger exists, the workmen, excluding those needed to correct the problem, shall be withdrawn to a point that has communication with the surface.

Final Regulations

0-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

NOTICE OF CORRECTION

10. Company:		11. Mine Index No.:	
12. Mine Name/No:		13. Dated:	
14. Action to Correct:			
15. Corrected: (a) Date: (b) Time:			

Inspector:
(Signature) _____

ORDER OF CLOSURE



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

1. Date: Mo. Da. Yr.			2. Section of Va. Mining Law:		
3. Served To:			4. Operator:		
5. Mine Name/No:			6. Mine Index No:		
7. Condition or Practice:					
8. Area or Equipment:					
9. Correction Due: (a) Date: (b) Time:					

Inspector:
(Signature) _____

Final Regulations

N-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

NOTICE OF CORRECTION

10. Company:		11. Mine Index No.:	
12. Mine Name/No:		13. Dated:	
14. Action to Correct:			
15. Corrected: (a) Date:		(b) Time:	

Inspector:
(Signature) _____

NOTICE OF VIOLATION



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

1. Date: Mo. Da. Yr.		2. Section of Va. Mining Law:	
3. Served To:		4. Operator:	
5. Mine Name/No:		6. Mine Index No:	
7. Condition or Practice:			
8. Area or Equipment:			
9. Correction Due:		(b) Time:	
(a) Date:			

Inspector:
(Signature) _____

* * * * *

Title of Regulation: VR 480-05-9.1. Rules and Regulations Governing Advanced First-Aid.

Statutory Authority: § 45.1-101.2 of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

If at any mine a sufficient number of qualified employees fail to volunteer to serve as Emergency Medical Care Technicians, the operator may elect to utilize the services of first aid trainees. The regulation provides for the specifications for and availability of first aid trainees. Public comments indicated that the requirement for the number of first aid trainees was excessive and burdensome. As a result of the comments, the number of required first aid trainees has been reduced.

VR 480-05-9.1. Rules and Regulations Governing Advanced First-Aid.

**PART I.
GENERAL REQUIREMENTS.**

Rule 1- § 1.1. In the event that at any time there is at any mine an insufficient number of qualified employees volunteering to serve as Emergency Medical Care Technicians, as provided for in Section § 45.1-101.1 of the Code of Virginia, the mine operator may elect to utilize the services of first-aid trainees, as provided in paragraph A of Section § 45.1-101.2 of the Code of Virginia, in such numbers as the Chief and the underground mine safety advisory committee determine to be appropriate.

Rule 2- § 1.2. These rules and regulations in no way replace the Emergency Medical Care Technicians as stipulated in Section § 45.1-101.1.

Rule 3- § 1.3. First-aid trainees referenced in Section § 45.1-101.1 shall complete a forty 40 hour advanced first-aid course as outlined herein.

Rule 4- § 1.4. If the services of advanced first-aid trainees are to be utilized pursuant to Section § 45.1-101.1 at least fifty percent of the employees of each mine employing said services, three employees per number of sections/units, each shift, one of which must be located on each working section or unit, shall be trained in advanced first-aid as prescribed herein.

Rule 5- § 1.5. Upon completion of the prescribed forty hour 40 hour advanced first-aid course, each trainee must submit to a written and a practical examination. A grade of eighty five per centum 85% must be attained on the examination.

Rule 6- § 1.6. Each year the advanced first-aid trainee

must submit to a ten 10 hour refresher training program.

Rule 7- § 1.7. All training referenced herein must be administered by an approved advanced first-aid instructor.

Rule 8- § 1.8. Requirements for first-aid equipment in underground mine sites.

A. Each operator of an underground coal mine shall maintain a supply of first-aid equipment and in the following locations:

1. At each mine dispatcher's office or other appropriate work area on the surface in close proximity of the mine entrance ; ;
2. At the bottom of each regularly traveled slope or shaft; however, when the bottom of the shaft or slope is less than 1,000 feet from the surface, such first-aid supplies may be maintained on the surface ; ;
3. At a point in each working face not more than 500 feet outby the working face or faces.

B. The first-aid equipment required to be maintained at the above locations shall include as a minimum the following materials and supplies:

1. One stretcher ; ;
2. One broken-backboard ; ; (If a splint-stretcher combination is used it will satisfy the requirement of both (1) and (2).)
3. Twenty-four (24) triangular bandages. Fifteen (15) if a splint-stretcher combination is used ; ;
4. Eight (8) 4 four- inch bandage compresses ; ;
5. Eight (8) 2 two- inch bandage compresses ; ;
6. Twelve (12) 1 one -inch adhesive compresses ; ;
7. One foille ; ;
8. Two cloth blankets ; ;
9. One rubber blanket or equivalent substitute ; ;
10. Two tourniquets ; ;
11. One (1) 1 one- ounce bottle of spirits of ammonia or one dozen ammonia ampules ; ;
12. The necessary complements of arm and leg splints or two each inflatable plastic arm and leg splints.

C. All first-aid supplies required to be maintained shall be stored in suitable, sanitary, dust tight, moisture proof containers and such supplies shall be accessible to the miners.

Final Regulations

In the event supplies are used, they shall be replenished immediately to meet the above requirements.

Rule 9. § 1.9. For any advanced first-aid course to meet the requirements of these rules a ~~forty~~ 40 hour course consisting of a minimum of the subjects in the following outline must be established:

1. Introduction to first-aid ; ;
2. Respiratory emergencies and artificial respiration ; ;
3. Removal of foreign bodies from the throat (the Heimlich maneuver) and cardiopulmonary resuscitation (CPR) ; ;
4. Wounds ; ;
5. Shock ; ;
6. Specific injuries ; ;
7. Head injuries; chest injuries ; ;
8. Contamination, infection and prevention ; ;
9. Burns ; ;
10. Cold exposure and frost bite ; ;
11. Bone and joint injuries ; ;
12. Dressings and bandages ; ;
13. Sudden illness ; ;
14. Emergency rescue and transfer ; ;
15. Unusual rescue situations ; ;
16. Poisonings ; ;
17. Transportation of victims.

Final Regulations

O-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

NOTICE OF CORRECTION

10. Company:		11. Mine Index No.:	
12. Mine Name/No:		13. Dated:	
14. Action to Correct:			
15. Corrected: (a) Date: (b) Time:			

Inspector:
(Signature) _____

ORDER OF CLOSURE



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

1. Date: Mo. Da. Yr.		2. Section of Va. Mining Law:	
3. Served To:		4. Operator:	
5. Mine Name/No:		6. Mine Index No:	
7. Condition or Practice:			
8. Area or Equipment:			
9. Correction Due: (a) Date: (b) Time:			

Inspector:
(Signature) _____

Final Regulations

N-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

NOTICE OF CORRECTION

10. Company:		ii. Mine Index No.:	
12. Mine Name/No:		13. Dated:	
14. Action to Correct:			
15. Corrected: (a) Date: (b) Time:			

Inspector:
(Signature) _____

NOTICE OF VIOLATION



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

1. Date: Mo. Da. Yr.		2. Section of Va. Mining Law:	
3. Served To:		4. Operator:	
5. Mine Name/No:		6. Mine Index No:	
7. Condition or Practice:			
8. Area or Equipment:			
9. Correction Due: (a) Date: (b) Time:			

Inspector:
(Signature) _____

Final Regulations

Title of Regulation: VR 480-05-96. Rules and Regulations Governing Vertical Mine Ventilation Holes.

Statutory Authority: § 45.1-104 (b1) of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation addresses safety in the drilling and use of vertical ventilation holes designed to remove methane gas from lower measure coal seams. The only revision replaces "Pocahontas No. 3 Seam" with "seam" from which methane gas is to be removed. This change allows for safety in all seams in which vertical ventilation holes are used for methane drainage.

VR 480-05-96. Rules and Regulations Governing Vertical Mine Ventilation Holes.

RULE 1: DEFINITIONS

PART I. DEFINITIONS.

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

A. "Approved" ~~shall mean~~ means approved by the Division of Mines and Quarries or other recognized agencies.

B. "Building" ~~shall mean~~ means a building regularly occupied in whole or in part as a habitation for human beings or any church, schoolhouse, railroad station, store or other building where people are accustomed to live, work, or assemble.

C. "Casing" ~~shall mean~~ means a string or strings of pipe commonly placed in wells drilled for petroleum and natural gas.

D. "Cement" ~~shall mean~~ means hydraulic cement properly mixed with water only.

E. "Chief" ~~shall mean~~ means the Chief Mine Inspector of the Division of Mines.

F. "Coal operator" ~~shall mean~~ means any person or persons, firm, partnership, partnership association or corporation that proposes to or does operate a coal mine.

G. "Deviation test" ~~shall mean~~ means any test made to determine the variation from the vertical of a well or hole bore.

H. "Division" ~~shall mean~~ means the Division of Mines.

I. "Gas" ~~shall mean~~ means natural gas including casing-head gas obtained from gas wells or ventilation holes regardless of its chemical analysis.

J. "Highway" ~~shall mean~~ means and include includes any public street, public alley, or public road.

K. "Mine" ~~shall mean~~ means an underground or surface excavation or development with or without any shafts, slopes, drifts or tunnels for the extraction of coal, minerals or nonmetallic materials, commonly designated as mineral resources (excluding petroleum and natural gas), containing the same with hoisting or haulage equipment and appliances for the extraction of the said mineral resources; and embraces any and all of the land or property of the mining plant, and the surface and underground, that is used or contributes directly or indirectly to the mining property, concentration or handling of said mineral resources.

L. "Mine operator" ~~shall mean~~ means any person or persons, firm, partnership, partnership association or corporation that proposes to or does operate a mine.

M. "Person" ~~shall mean~~ means any natural person, firm, partnership, partnership association, association, company, corporation, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.

N. "Pillar" ~~shall mean~~ means a solid block of coal or ore or other material, left unmined to support the overlying strata in a mine.

O. "Plug" ~~shall mean~~ means the stopping or sealing off of the flow of water, oil or gas in a well or ventilation hole.

P. "Railroad" ~~shall mean~~ means and include includes any steam, electric or other motive-powered transportation systems operating on track which carries passengers for hire, or over which loaded or empty equipment is transported.

Q. "Vertical ventilation hole" ~~shall mean~~ means any hole drilled from the surface to the coal seam used only for the safety purpose of removing gas from the underlying coal seam and the adjacent strata, thus, removing the gas that would normally be in the mine ventilation system. This does not prohibit the hole, at a later date, when no longer used for safety, to be declared a gas well or for any other purpose meeting the approval of the Chief Mine Inspector as provided by Chapters 1-12, Title 45.1 of the Code of Virginia.

R. "Workable coal bed" ~~shall mean~~ means a coal bed in fact being operated commercially, or which, in the judgement of the Chief, can, and that is reasonably to be expected will be so operated, and which, when operated, will require protection if holes are drilled through it.

RULE 2: MAPS OR PLATS: ADJACENT OWNERS,

ETC., TO FILE OBJECTIONS

PART II. MAPS OR PLATS; ADJACENT OWNERS, ETC., TO FILE OBJECTIONS.

§ 2.1. Before drilling a mine ventilation hole on any tract of land, the mine operator shall have prepared by a competent engineer or surveyor and file with the Chief, together with the application required; (i) an accurate plat or map on a scale, to be stated thereon, not smaller than ~~four hundred~~ 400 feet to the inch, showing the proposed location and surface elevation of the hole determined by survey, (ii) the courses and distances of such location from two permanent points or landmarks on said tract, (iii) the name and number proposed to be given to the hole, (iv) the name of the owner and the boundaries and acreage of the tract on which the hole is to be drilled, (v) the names of the owners of all adjoining tracts and of any other tract within ~~five hundred~~ 500 feet of the proposed location and any building, highway, railroad, stream, ventilation hole, oil or gas well, mine, mine openings or workings, or quarry within ~~five hundred~~ 500 feet of the proposed location. Copies of such plat or map shall be mailed to each such adjacent landowner, and to each owner, or lessee, or operator of any mineral rights on, in or under, such land or mine, well or quarry within ~~five hundred~~ 500 feet of the proposed location, by registered mail, together with notice (on forms provided by the Chief) of his intention to drill vertical mine ventilation hole. Each such owner, lessee, or operator shall, within ~~ten~~ 10 days from receipt of such notice, file with the Chief any objection which he may have to the proposed location. The Chief may, if he deems necessary, allow five ~~(5)~~ additional days before the issuance of any permits to drill.

RULE 3: ISSUANCE OF PERMIT WHEN NO OBJECTIONS FILED

PART III. ISSUANCE OF PERMIT WHEN NO OBJECTIONS FILED.

§ 3.1. Upon the filing of an application for a permit to drill vertical mine ventilation hole, the Chief shall, if no objection has been made within the specified ~~ten~~ 10 day period to such drilling by any person to whom notice is required to be sent, issue the requested permit.

Any permit so issued shall recite the filing of an application for a permit to drill and a plat or map showing the proposed location of the hole and other required information, that no objection has been made to the proposed location by any interested person, or found by the Chief, that the same is approved and the mine operator is authorized to proceed to drill vertical mine ventilation hole at such location.

RULE 4: WHEN OBJECTIONS FILED; HEARING; ISSUANCE OF PERMIT AFTER

HEARING AND AGREEMENT ON LOCATION

PART IV. WHEN OBJECTIONS FILED; HEARING; ISSUANCE OF PERMIT AFTER HEARING AND AGREEMENT ON LOCATION.

§ 4.1. If any objection or objections are filed by any person having an interest in such land or adjacent lands, the Chief shall notify the applicant for permit of the character of the objections and by whom made and fix a time and place for a hearing, not less than ~~ten~~ 10 nor more than ~~forty~~ 40 days after the original filing of the application for a permit to drill, at which hearing such objections will be considered, of which every person to whom notice was required to be sent shall be given at least five days written notice. At such hearing the applicant, or any person filing objections, and all other interested persons shall proceed to consider the location and objection thereto, and to agree upon the location either as made or so moved as to satisfy all objections and satisfy the Chief, and any change in the original location so agreed upon shall be indicated on the plat or map on file with the Chief. Whereupon the Chief shall issue to the applicant a drilling permit reciting the filing of an application for a permit to drill and a plat or map showing the proposed location of the hole and other required information, that at a hearing duly held the location shown was agreed upon and approved, and that the applicant is authorized to drill at such location.

RULE 5: FIXING LOCATION OF HOLE PENETRATING WORKABLE COAL BED

PART V. FIXING LOCATION OF HOLE PENETRATING WORKABLE COAL BED

§ 5.1. If the requested location is such that the mine ventilation hole would penetrate a workable coal bed, then the Chief shall fix the location on such tract of land as near to the requested location as possible in a pillar of suitable size, through which the ventilation hole can be drilled safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal. Should no such pillar exist, the ventilation hole may be located and drilled through open workings where, in the judgement of the Chief, it is practicable and safe to do so, taking into consideration the dangers from creeps, squeezes and other disturbances. The Chief shall be governed by the information contained in attachments (1) and (2) in making his decision as to the location of the proposed vertical mine ventilation hole.

RULE 6: RECORDS TO BE KEPT BY CHIEF

PART VI. RECORDS TO BE KEPT BY CHIEF.

§ 6.1. The Chief shall number, index and keep as a permanent record each application, plat or map and notice

Final Regulations

filed with him and shall record the name of the applicant, names of the persons notified and their addresses, the date of receipt of any such application, plat or map and all objections filed, dates of hearings and all actions taken by the Chief and permits issued or refused, which records shall be open to inspection by the public.

RULE 7: REVIEW OF ACTION OF CHIEF

PART VII. REVIEW OF ACTION OF CHIEF

§ 7.1. Any person aggrieved by any action of the Chief in fixing or approving any location for the drilling of a vertical mine ventilation hole, or by the issuance of or refusal to issue any drilling permit, shall have the right to apply to the circuit court of the county wherein the location lies for review of the Chief's decision.

RULE 8: HOW A MINE VENTILATION HOLE PENETRATING WORKABLE COAL BED TO BE DRILLED AND CASED

PART VIII. HOW A MINE VENTILATION HOLE PENETRATING WORKABLE COAL BED TO BE DRILLED AND CASED.

§ 8.1. A mine ventilation hole penetrating one or more workable coal beds shall be drilled to such depth, and of such size, as will permit the placing of casing and packers in the hole at such point and in such manner as will exclude all fresh or salt water, oil, gas or gas pressure from the coal bed, except such as may be found in the coal bed itself.

A. For mine ventilation holes drilled on the valley floor, for protection of fresh water supplies the necessary amount of surface casing (normally 9-5/8 inch O.D.) shall be set and cemented back to surface. When the hole has been reduced and completed, the production casing string (normally 7 inch O.D.) shall be cemented from the packer collar above the slotted casing at the bottom back to the surface. (See Figure 1)

B. For mine ventilation holes which penetrate virgin coal or barrier, a large enough hole shall be drilled to a depth of 50 feet below the coal bed to allow placement of a liner (normally 9-5/8 inch O.D.) through the coal and then the hole may be reduced and completed. The liner may be welded to the production casing string and these shall be cemented from the packer collar above the slotted casing back to the surface. (See Figure 2)

C. For mine ventilation holes which penetrate a mined out area in an active mine, a large enough hole shall be drilled to a depth of 50 feet below the coal bed to allow placement of a liner through the bed, and then the hole may be reduced and completed. The liner may be welded to the production casing string and a cement basket placed directly above the liner. The casing shall be cemented

from the packer collar above the slotted casing on the bottom of the production string back up to the mined out area and from the cement basket to the surface. (See Figure 3)

D. For mine ventilation holes which penetrate a mined out area in an abandoned mine, the large hole shall be drilled to a depth of 50 feet below the coal bed and then the hole may be reduced and completed. The liner will not be required through the mined out area. The production casing string shall be set and cemented in from the packer collar above the slotted casing at the bottom back up to the mined out area and from the cement basket above the mined out area to the surface. (See Figure 4)

RULE 9: MINE VENTILATION HOLE PENETRATING MINE OTHER THAN COAL MINE

PART IX. MINE VENTILATION HOLE PENETRATING MINE OTHER THAN COAL MINE.

§ 9.1 In the event that a permit is requested to drill a mine ventilation hole in such a location that it would penetrate any active or abandoned mine other than a coal mine, the Chief may by regulation establish the safety precautions to be followed by the ventilation hole operator, which shall conform to standard safety measures generally followed in the industry in such cases.

RULE 10: DEVIATION TESTS

PART X. DEVIATION TESTS.

§ 10.1. All mine ventilation holes shall be drilled with due diligence to maintain a reasonably vertical hole bore. Upon completion of each mine ventilation hole, a directional survey shall be run to determine the exact location of the hole bore at total depth and at the points where the hole passes through all workable coal beds.

§ 10.2. A hole may be intentionally deviated from the vertical only after written permission has been granted by the Chief or an authorized agent thereof, and provided further, that such permission shall not be granted without due notice and hearing, if such is required in the opinion of the Chief.

§ 10.3. A copy of the directional survey for each mine ventilation hole must be filed with the Chief within ~~thirty~~ (30) days after completion of the hole. All mining operations affected by the ventilation hole shall be furnished a copy of the directional survey and its interpretation.

§ 10.4. The Chief shall have the right to require the operator to make a directional survey of any hole, at anytime prior to the completion of the hole at the expense of the operator, in order to ascertain that the hole has not

deviated from a reasonably vertical direction.

RULE 11: MINING OPERATIONS NEAR MINE VENTILATION HOLES

PART XI. MINING OPERATIONS NEAR MINE VENTILATION HOLES.

§ 11.1. Before removing any coal or other mineral, or extending any mine workings or mining operations within ~~five hundred 500~~ feet of any mine ventilation hole, the operator of such mine shall give notice by registered mail to the ventilation hole operator and to the Chief and forward therewith an accurate map or maps on a scale, to be stated thereon, of ~~one hundred 100 to four hundred 400~~ feet to the inch showing its mine workings and projected mine workings beneath such tract of land or within ~~five hundred 500~~ feet of such ventilation hole. Following the giving of such notice and the furnishing of such map or maps, the mine operator may proceed with mining operations as projected on such map or maps, but shall not remove any coal or other mineral or conduct any mining operations nearer than ~~two hundred 200~~ feet to any completed hole or hole that is being drilled, or for the purpose of which drilling a derrick is being constructed, without the consent of the Chief.

§ 11.2. Application may be made at any time to the Chief by the mine operator for leave to conduct mining operations within ~~two hundred 200~~ feet of any such hole or projected hole on forms furnished by the Chief and containing such information as the Chief may require. Such application shall be accompanied by a map or maps as above specified showing all mining operations or workings projected within ~~two hundred 200~~ feet of the hole or projected hole. Notice of such application shall be sent by registered mail to the mine operator whose ventilation hole may be affected. The Chief 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 ventilation hole operator, grant the request of the mine operator to conduct the mining operations as projected, or with such modifications as he may deem necessary. If the ventilation hole operator files objections a hearing will be held under the same procedures as set forth in Rule 4 PART IV. The Chief shall be governed by the information contained in Attachments (1) and (2) in making his decision as to the location of the proposed mine ventilation hole.

RULE 12: NOTIFICATION OF INTERESTED PERSONS

PART XII. NOTIFICATION OF INTERESTED PERSONS

§ 12.1. When an application to drill a vertical mine ventilation hole has been made and all interested persons notified as required in Rule 2 PART II, all such interested persons who are owners, lessees, or operators of

any coal seams which are located above the ~~Peechantas No. 3 Seam~~ seam from which methane gas is to be removed shall furnish information to the Division of Mines regarding the elevations and thicknesses of these seams, if known, so that a decision can be made by the Chief prior to the drilling of the hole as the which seams will require protection by use of a liner as described in Rule 8 PART VIII.

RULE 13: PROCEDURE FOR ABANDONMENT

PART XIII. PROCEDURE FOR ABANDONMENT

§ 13.1. When it is determined by the Chief that a vertical mine ventilation hole is no longer useful for venting methane gas from a gob area or relieving gas pressure from an abandoned area of a mine, and for any other useful and safe purpose as approved by the Chief, such hole shall be plugged and abandoned according to methods and procedures which shall be approved by the Chief.

ATTACHMENT NO. 1 SPECIFICATIONS FOR PILLAR PLANS AROUND VERTICAL MINE VENTILATION HOLES

1. The pillar or pillars comprising the required pillar plan should be the form of a square.
2. The hole should be centrally located within the required pillar plan.
3. The required pillar plan should conform to the following specifications, wherein the greatest depth of cover shall be used in each range to determine the total bearing area.

Cover	Req'd Solid Pillar Area	Req'd Additional Pillar Area (Solid or Split)	Total Area Bearing Surface Required
0-99 ft.	1,600 sq. ft.	-	1,600 sq. ft.
100-149 ft.	3,600 sq. ft.	-	3,600 sq. ft.
150-249 ft.	5,625 sq. ft.	-	5,625 sq. ft.
250-349 ft.	10,000 sq. ft.	-	10,000 sq. ft.
350-449 ft.	10,000 sq. ft.	5,600 sq. ft.	15,600 sq. ft.
450-549 ft.	10,000 sq. ft.	13,000 sq. ft.	23,000 sq. ft.
550-649 ft.	10,000 sq. ft.	22,000 sq. ft.	32,000 sq. ft.
650- ft.	10,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
(plus)			

Note 1. 40,000 square feet is the maximum bearing area except under unusual conditions.

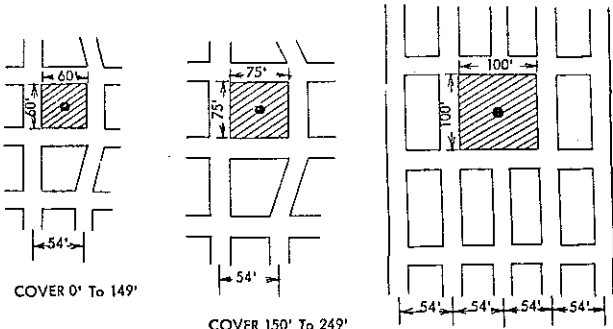
Note 2. As to the additional pillar area required, the following specifications must be adhered to:

- a. The excavated area shall not exceed 15 feet in width, or a width wide enough to accommodate the type of equipment being used in the mine together with the law requirements on clearance. If more than 18 feet in width is required, then additional pillar support shall be provided.
- b. The shortest pillar dimension shall not be less than twice the width of the excavated area.

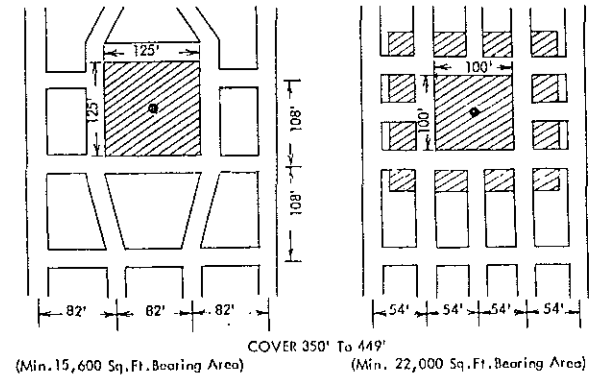
Final Regulations

Note 3. The split pillar plan is intended to facilitate mining operation haulage, ventilation, drainage, etc., without destroying the value of the pillar plan.

VERTICAL MINE VENTILATION HOLES
 EXAMPLES OF PILLAR PLANS FOR VARIOUS DEPTHS OF COVER
 ATTACHMENT NO. 2 (PAGE 1)



COVER 250' To 349'
 (Min. 10,000 Sq. Ft. Bearing Area)



ATTACHMENT NO. 2 (PAGE 2)

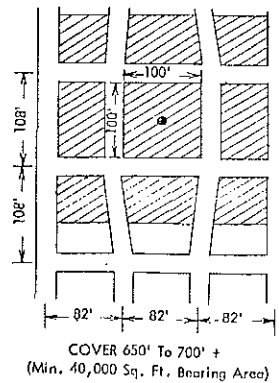
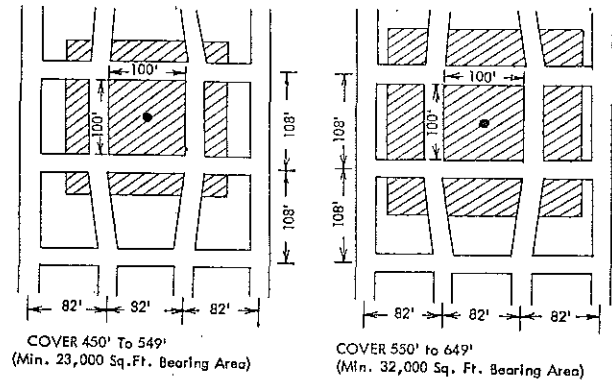


FIGURE NO. 1
VERTICAL MINE VENTILATION HOLE CASING PROGRAM - VALLEY FLOOR

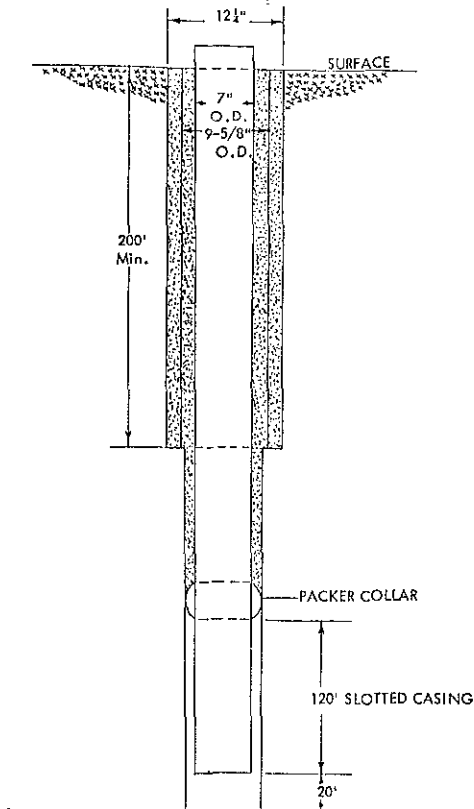


FIGURE NO. 2
VERTICAL MINE VENTILATION HOLE CASING PROGRAM - SOLID COAL SEAM PENETRATED

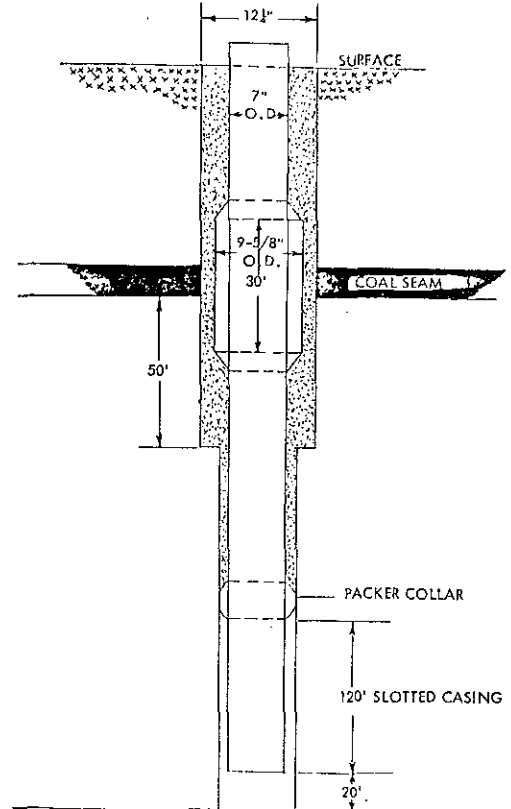


FIGURE NO. 3, VERTICAL MINE VENTILATION HOLE CASING PROGRAM
MINED AREA PENETRATED - ACTIVE MINE

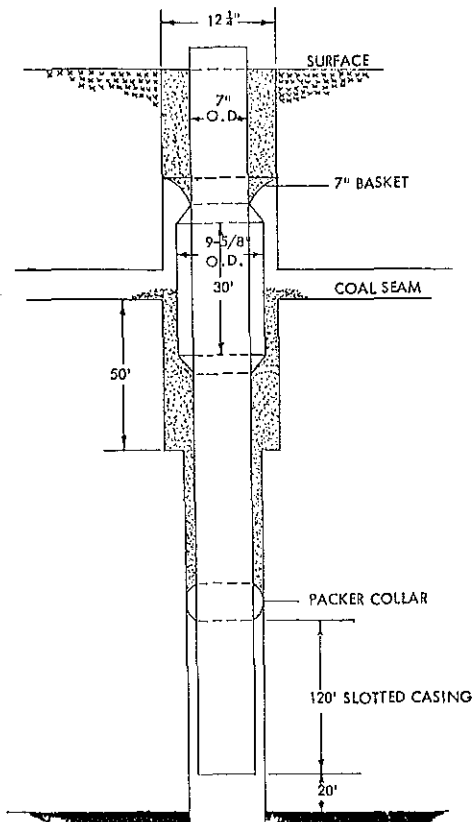
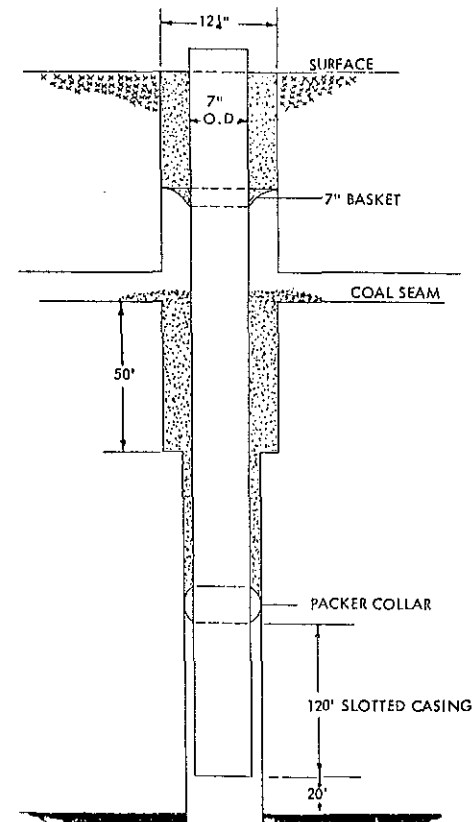


FIGURE NO. 4, VERTICAL MINE VENTILATION HOLE CASING PROGRAM
MINED AREA PENETRATED - ABANDONED MINE



Final Regulations

VVH-1

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINES
BIG STONE GAP, VIRGINIA 24219
Phone 703-523-0335/3401

APPLICATION FOR PERMIT TO DRILL VERTICAL VENTILATION HOLE

(To be submitted in duplicate, one copy to be returned to applicant after action by Division of Mines and one copy to be mailed by registered mail to owner or lessee if the hole goes through a mine or lease of another.)

TO: Division of Mines
219 Wood Avenue
Big Stone Gap, Virginia, 24219

Place

Date, 19

Gentlemen:

The undersigned hereby makes application for a Permit to drill on the _____ Farm, comprising _____ acres, in the _____ District of _____ County, Virginia, having the fee title thereto, or as the case may be under grant or lease dated _____, 19 _____ made by _____ to _____ and recorded on the _____ day of _____, 19 _____ in the office of the County Clerk for the said County in Book _____ Page _____.

The proposed location is shown on a location plat or map submitted to the Division of Mines by the undersigned, together with Notice of Intention to Drill on the _____ day of _____, 19 _____.

The proposed hole will be known as Hole No. _____ of _____ (company, etc.) It is proposed to drill to a depth of about _____ feet. The proposed location is about _____ feet distant from the nearest property or lease line; about _____ feet distant from the nearest mining opening, or quarry (strike out words not applicable); and/or about _____ feet distant from the nearest drilling, abandoned, producing, or applied for (strike out words not applicable) oil or gas (strike out words not applicable) well.

Correspondence regarding this hole should be addressed to _____

Signature of officer or certifying party: _____

Drilling Company or Operator

NAME

Street

Title

City or Town & State

ACTION OF DIVISION OF MINES

Received on _____, 19 _____.

Approval granted on _____, 19 _____.

Denied _____

Reasons for denial _____

DIVISION OF MINES

By: _____

File No. _____

Hole No. _____

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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINES
BIG STONE GAP, VIRGINIA, 24219

NOTICE OF INTENTION TO DRILL VERTICAL VENTILATION HOLE

(One copy of this report and three identical copies of a plat or map, on a scale not smaller than 400 feet to the inch, and showing information required by RULES AND REGULATIONS GOVERNING VERTICAL VENTILATION HOLES, must be submitted to the Division of Mines and copies sent by registered mail to all persons defined in above law, prior to obtaining a permit to drill.)

TO: Division of Mines
219 Wood Avenue
Big Stone Gap, Virginia 24219

Place

-----, 19_____
Date

Gentlemen:

The undersigned proposes to begin as soon as a permit therefor is obtained from the Division of Mines, to drill VERTICAL VENTILATION HOLE _____ on the _____ Farm, comprising _____ acres, in the _____ District of _____ County, Virginia, having the fee title thereto, or as the case may be, under grant or lease dated _____, made by _____ to _____ and recorded on the _____ day of _____, 19_____, in the office of the County Clerk for said County in Book _____ Page _____. The proposed location of the hole, as shown on the attached plat or map, is about _____ (feet/miles) of _____. It is proposed to drill this hole to a depth of about _____ feet. Samples or cutting therefrom will or will not be available for examination by a member of the staff of the Virginia Geological Survey. Cuttings will or will not be furnished the Survey.

A plat or map, in triplicate, on a scale not smaller than 400 feet to the inch, showing the proposed location of the hole and other information, required in RULES AND REGULATIONS GOVERNING VERTICAL VENTILATION HOLES is attached hereto. Copies of the plat and notice of intention to drill _____ the aforementioned hole have been sent to all interested persons as follows (list names and mail address of each. Use back of sheet if additional space is required):

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Signature of officer or certifying party: _____

Drilling Company or Operator

NAME

Street Address

TITLE

City or Town and State

File _____ Date Received _____ Hole No. _____

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-0	1	2	3		Latitude
1					
2					
3					
					Longitude
Company _____ Address _____ Farm _____ Tract _____ Acres _____ Leas NO. _____ Hole NO. _____ Elevation _____ Quadrangle _____ County _____ Engineer _____ Engineer's Registration NO. _____ File _____ Date _____ Scale _____				COMMONWEALTH OF VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY DIVISION OF MINES VENTILATION HOLE LOCATION MAP + Denotes location of well on United States topographic maps, scale 1 to 24,000 latitude and longitude lines being represented by border lines as shown. - Denotes one Inch spaces on border line of original tracing.	

Final Regulations

O-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

NOTICE OF CORRECTION

10. Company:	11. Mine Index No.:
12. Mine Name/No:	13. Dated:
14. Action to Correct:	
15. Corrected: (a) Date: (b) Time:	

Inspector:
(Signature) _____

ORDER OF CLOSURE



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

01000
Order Number

1. Date: Mo. Da. Yr.	2. Section of Va. Mining Law:
3. Served To:	4. Operator:
5. Mine Name/No:	6. Mine Index No:
7. Condition or Practice:	
8. Area or Equipment:	
9. Correction Due: (a) Date: (b) Time:	

Inspector:
(Signature) _____

N-1
April, 1985

Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

NOTICE OF CORRECTION

10. Company:	11. Mine Index No.:
12. Mine Name/No:	13. Dated:
14. Action to Correct:	
15. Corrected: (a) Date: (b) Time:	

Inspector:
(Signature) _____

NOTICE OF VIOLATION



COMMONWEALTH OF VIRGINIA
219 Wood Avenue
Big Stone Gap, Virginia 24219
Department of Mines, Minerals and Energy
Division of Mines

4200
Notice Number

1. Date: Mo. Da. Yr.	2. Section of Va. Mining Law:
3. Served To:	4. Operator:
5. Mine Name/No:	6. Mine Index No:
7. Condition or Practice:	
8. Area or Equipment:	
9. Correction Due: (a) Date: (b) Time:	

Inspector:
(Signature) _____

Title of Regulations: VR 480-05-97. Rules and Regulations Governing Blasting In Surface Mining Operations.

Statutory Authority: § 45.1-104 (b1) of the Code of Virginia

Effective Date: December 11, 1985

Summary:

This regulation addresses the requirements for control of blasting activities at surface mining operations. The revisions in the regulation primarily address the areas of blast noise and vibration. The revisions are the result of advancement in technology in these areas.

VR 480-05-97. Rules and Regulations Governing Blasting In Surface Mining Operations.

RULE 1: DEFINITIONS

**PART 1.
DEFINITIONS.**

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

(1) "Actual distance" shall mean means the distance in feet from the blast location to the nearest dwelling house, public building, school, church, or commercial or institutional building neither owned nor leased by the person conducting the blast.

(2) "Approved" shall mean means approved by the Division of Mines and Quarries or other recognized agencies.

(3) "Barricade" shall mean means natural features of the ground such as hills, timber of sufficient density that surrounding exposures cannot be seen when the trees are bare of leaves, or an efficient artificial barricade consisting of an artificial mound or properly revetted wall of earth not less than three (3) feet thick at the top.

(4) "Charge weight" shall mean means the weight in pounds of an explosive charge.

(5) "Delay interval" shall mean means the time interval in milliseconds between successive detonations of the delay devices used.

["Detonating cord" means a flexible cord containing a center core of high explosives and used to initiate other explosives.]

(6) "Division" shall mean means the Division of Mines and Quarries .

(7) "Establishment" shall mean means any place within

the Commonwealth of Virginia where work is done for compensation, to whomever payable, supervision over which has been given by statute to the Division of Mines and Quarries .

["Fly rock" means fly rock including blasted material traveling along the ground shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling or other occupied structure and in no case beyond the line of property owned or leased by the operator.]

(8) "Highway" shall mean means and include includes any public street, public alley or public road.

(9) "Inhabited building" shall mean means a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosives.

(10) "Magazine" shall mean means a building or structure, other than a factory building, designed to be used exclusively for the storage of explosives.

(11) "Person" shall mean means and include includes individuals, firms, partnerships, associations, corporations, receivers , or any officer of the Commonwealth , or any agent or officer of the above-mentioned classes employing any person in this Commonwealth.

(12) "Primer" shall mean means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and blasting agents, and which contains a detonator or detonating cord.

(13) "Railroad" shall mean means and include includes any steam, electric or other motive-powered transportation systems operating on track which carries passengers for hire, or over which loaded or empty equipment is transported.

(14) "Scaled distance (Ds)" shall mean 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 (8) milliseconds or greater; or the total weight of explosive in pounds that is detonated within an interval less than eight (8) milliseconds.

This means

that

Actual Distance

$$\text{Scaled Distance} = \frac{\text{Actual Distance}}{\sqrt{\text{Charge Wt. Per Delay Period}}}$$

Thus,

$$D_s = \frac{D}{\sqrt{W}}$$

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(15) "Stemming" shall mean 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.

(16) "Subcharge" shall mean means a quantity of explosive or equivalent that is to be detonated within a period of less than one millisecond.

(17) "Surface mine" shall mean means an open pit excavation from which coal or other minerals are produced for sale, exchange, or commercial use; and includes all buildings and equipment above the surface of the ground used in connection with such mining.

(18) "Vehicle" shall mean means any rolling stock or equipment, whether self-propelled or otherwise, and shall include includes all trailers.

RULE 2: CERTIFICATION

PART II. CERTIFICATION.

(A) § 2.1. By the authority provided in Section § 45.1-12 ; of the Code of Virginia, the Board of Mine Examiners will require on and after June 30, 1975, that all blasters be certified by such board.

(B) § 2.2. Between June 30, 1975, and December 31, 1975, all persons who have performed blasting at any surface mine in this State Commonwealth for a period of one year, previous to June 30, 1975, may be certified without examination. The applicant must file an application and furnish proof of experience to the board.

(C) § 2.3. After January 1, 1976, all blasters must pass a written examination, prescribed by the board, and have worked at least one year with or under the direction of a certified blaster.

(D) § 2.4. The board may grant certificates to persons holding a certificate issued by another state, providing provided that the requirements for a certification in such state are substantially equivalent to those of Virginia.

RULE 3: BLASTING STANDARDS

PART III. BLASTING STANDARDS.

(A) In all blasting operations, except as hereinafter otherwise provided, the maximum peak particle velocity of the ground motion in any direction shall not exceed two inches per second immediately adjacent to the location of any dwelling house, public building, school, church, commercial or institutional building, except that buildings designed to withstand more than two inches per second peak particle velocity, the blaster does not have to comply with this standard.

§ 3.1. Ground vibration - In all blasting operations, except as otherwise authorized herein, the maximum ground vibration shall not exceed the values listed in Table 3-A. The maximum ground vibration adjacent to the location of any dwelling house, public building, school, church, or commercial or institutional building shall be established in accordance with either the maximum peak particle velocity limits of Table 3-A of this section, the scaled distance equation, the blasting level chart of Table 3-B, or by regulatory authority under § 10.

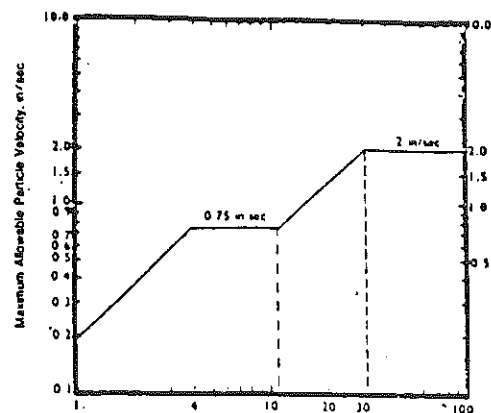
TABLE 3-A MAXIMUM [ALLOWABLE] PEAK VELOCITY

Distance (D), from blasting site in Feet	Maximum Allowable Peak Particle Velocity (V _{max}) For Ground Vibration, in Inches/Second.	Scaled Distance Factor to be Applied Without Seismic Monitoring.
0 to 300-----	1.25	50
301 -5000-----	1.00	55
5001 and beyond-----	0.75	65

1. Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

2. Applicable to the scaled-distance equation of § 3.3.

TABLE 3-B (ALTERNATIVE BLASTING LEVEL CRITERIA)



BLAST VIBRATION FREQUENCY, Hz
Alternative blasting level criteria

(Source modified from figure B-1, Bureau of Mines R(8507))

If [the figures are Table 3-B is] used, a seismographic record including both particle velocity and vibration-frequency levels shall be provided for each blast. The method for the analysis of the predominant frequency contained in the blasting records shall be approved by the regulatory authority before application of this alternative blasting criterion.

An operator may use the ground-vibration limits in Table 3-B to determine the maximum allowable [~~ground vibration~~ peak particle velocity].

~~(B)~~ § 3.2. This ground velocity limit [~~is not construed~~ does not apply] to mean a property owned, leased, or contracted by the blaster or blaster's company or on property on which the owner gives a written waiver.

~~(C)~~ § 3.3. Where seismic instrumentation is not employed, the United States Bureau of Mines has recommended that the maximum charge per delay period (W) be determined by the formula:

$$W = \left(\frac{D}{50} \right)^2$$

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

where (W) is the weight of explosive in pounds per delay and (D) is the distance in feet to the nearest dwelling house, public building, school, church, or commercial or institutional building. On sites where the Division decides it necessary not to comply with the provision of the law this formula may be altered.

~~(D)~~ § 3.4. If on a particular site the peak ground particle velocity continuously exceeds one-half inch per second after a period of one second following the maximum ground particle velocity, the Division shall require the charge per delay to be reduced so that this limit is complied with . This applies where short delays are being used.

~~(E)~~ § 3.5. Any deviation from the formula $W = \left(\frac{D}{50} \right)^2$ $W = \left(\frac{D}{D_s} \right)^2$ found in Rule ~~(3)~~ ~~(C)~~ § 3.3. , a nationally accepted formula, shall be supported by seismic instrumentation according to an approved test plan. The test plan shall be designed to establish the scaled distance for a given operation which will not produce particle velocities greater than 2.0 inches per second prescribed in Table 3-A and Table 3-B, at the nearest building as defined in Rule ~~(1)~~ ~~(9)~~ PART I . The plan shall be approved by the Chief Mine Inspector of the Division of Mines prior to testing. When said tests have been completed, a qualified seismologist shall certify the seismic analyses to be submitted to the Chief Mine Inspector of the Division of Mines .

EXAMPLE: Given an actual distance of [~~1,000~~ 1,100] feet and a Charge Weight per delay period of 400 pounds, find the Scaled Distance:

$$[D_s = \sqrt{\frac{1,000 \times 400}{20}} = 200] \quad [D_s = \sqrt{\frac{1,100 \times 400}{20}} = 55]$$

Once the safe minimum Scaled Distance has been determined, the safe maximum Charge Weight per delay for any blast can be determined by use of the relationship:

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

Thus,

$$\text{Charge Weight} = \left(\frac{\text{Actual Distance}}{\text{Scaled Distance}} \right)^2$$

EXAMPLE: Given an Actual Distance of [~~1,000~~ 1,100] feet and a Scaled Distance of [50 55], find the Charge Weight.

$$\text{Charge Weight} = \left[\frac{1,100}{55} \right]^2 = (20)^2 = 400 \text{ lbs.}$$

~~(F)~~ § 3.6. In lieu of Section ~~(E)~~ § 3.5, the operator may choose to record every blast. The seismic data shall be available for inspection at any time by the Chief Mine Inspector of the Division of Mines or his designated representative and shall be retained by the operator for a minimum of three ~~(3)~~ years. As long as the seismographic records indicate particle velocities of 2.0 inches per second or less, prescribed in Table 3-A and Table 3-B, the operator shall be considered to be in compliance with state law.

~~(G)~~ § 3.7. If explosive charges of greater than 40,000 pounds are necessary, a permit must be obtained from the Division of Mines and Quarries . The Division shall consider each case on its own merits in making a determination as to whether or not to grant such a permit.

RULE 4: SEISMOGRAPH MEASUREMENTS

PART IV.

SEISMOGRAPH MEASUREMENTS.

[~~(A)~~ § 4.1. If a blaster feels that the standard is too conservative, he may on ten (10) days ' notification of the Division of Mines and Quarries use seismograph measurements and increase the charge per delay period, provided that the velocity of two (2) inches per second limit is not violated, ~~complies with Table 3-A and Table 3-B~~ . He must use the seismograph on every shot thereafter until the new standard is approved. If the blaster decides to return to the use of the original standard, he may do so by notifying the Division ten (10) days in advance.]

~~(B)~~ [§ 4.2. § 4.1.] If a blaster considers the standard too conservative for his particular area, he may [~~upon~~ submission of seismograph reports,] petition for a modified standard for blasting operation at that particular site but in no case shall the Division allow a standard that would permit velocities above the 2 inch per second limit limits prescribed in Table 3-A and Table 3-B .

~~(C)~~ [§ 4.3. § 4.2.] In making seismograph determination of the velocity at a particular position, the formula shall be used:

$$v = v_0 \left(\frac{D_0}{D} \right)^{1.5}$$

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Where (Vo) is the maximum ground particle velocity at the seismograph, (Do) is the distance of the seismograph from the blast and (D) is the distance from the blast to the position in question and in the same general direction. The distance (Do) may not be greater than (D) and (D) cannot be more ~~the~~ ~~then~~ five (5) times (Do). This determined velocity at the site dwelling house, public building, school, church, or commercial or institutional building shall not exceed the ~~two (2) inches per second limit prescribed limits in Table 3-A and Table 3-B~~ .

~~(D)~~ [§ 4.4. § 4.3.] In seismic test tests for compliance or petition, the analysis of seismic data shall be conducted and analysed by a qualified seismologist.

~~(E)~~ [§ 4.5. § 4.4.] If there is reason to believe a blaster is operating illegally under the provisions of these regulations, the Division may require a seismograph recording of any or all blasts.

RULE 6: INSTRUMENTATION

PART V. INSTRUMENTATION.

~~(A)~~ § 5.1. All three-component portable displacement seismographs currently in use will be approved until further notice by the Division of Mines ~~and Quarries~~ .

~~(B)~~ § 5.2. A direct reading velocity instrument shall be approved by the Division of Mines ~~and Quarries~~ , only if it has a frequency response of the instrument of ~~5~~ five cycles per second to 150 cycles per second or greater, a velocity range from ~~zero 0.0~~ 0.0 to 2.0 in/sec. or greater, adheres to design criteria for portable seismographs as outlined in USBM R1-5708, USBM R1-6487, and meets such standards as are established from time to time by the Division of Mines ~~and Quarries~~ .

~~(C)~~ § 5.3. Three-component instruments of both the direct reading velocity type having internal calibration capability and the displacement type will be approved by the Division of Mines ~~and Quarries~~ for use as follows.

‡ A. Particle velocity reading may be calculated from results obtained by a displacement instrument or obtained from an approved direct reading velocity instrument in any blasting operation where all of the following conditions exist:

- a. 1. Recording distance is over 200 feet from the blast ; ;
- b. 2. Scaled distance is numerically greater than 25 ; ;
- e. 3. The predominant frequency of the ground motion is 40 cycles per second or less.

‡ B. A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:

a. 1. Recording distance is less than 200 feet from the blast ; ;

b. 2. Scaled distance is numerically less than 50.

‡ C. A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:

a. 1. Recording distance is more than 200 feet from the blast ; ;

b. 2. Scaled distance is numerically less than 25.

‡ D. A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:

a. †. Recording distance is more than 200 feet from the blast . ;

b. 2. The predominant frequency of the ground motion is in excess of 40 cycles per second. Scaled distance is defined as:

$$Ds = \sqrt{\frac{D}{W}}$$

where (D) is the actual distance in feet and (W) is the maximum weight of explosives in pounds per delay period of eight (8) milliseconds or greater.

RULE 6: RECORDS

PART VI. RECORDS.

~~(A)~~ § 6.1. A record of each blast shall be kept. All records including seismograph reports shall be retained at least three years and shall be available for inspection by the Division of Mines ~~and Quarries~~ and shall contain the following minimum data:

1. Name of company or contractor ; ;
2. Location, date and time of blast ; ;
3. Name, signature [~~and~~ ,] social security number [, and certification number] of blaster in charge ; ;
4. Type of material blasted ; ;
5. Number of holes, burden and spacing ; ;
6. Diameter and depth of holes ; ;
7. Types of explosives used ; ;
8. Total amount of explosives used ; ;
9. Maximum amount of explosives per delay period of

eight ~~(8)~~ 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, or 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. If mats or other protections were used ; ;

15. Type of [~~delay electric blasting caps detonators~~] used and delay periods used ; ;

16. The person taking the seismograph reading shall accurately indicate the 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 ; ;

c. Seismograph reading.

18. Maximum number of holes per delay period of eight ~~(8)~~ milliseconds or greater.

RULE 7: BLASTING SAFETY

PART VII. BLASTING SAFETY.

~~(A)~~ § 7.1. When blasting operations, other than those conducted at a fixed site as a part of any industry or business operated at such site, are to be conducted within ~~two-hundred~~ 200 feet of a pipe line, or high voltage transmission line, the blaster or person in charge of the blasting operations shall take due precautionary measures for the protection of the line, and shall notify the owner of the line or his agent that such blasting operations are intended.

~~(B)~~ § 7.2. Blasting operations near streams shall be prohibited in all cases where the effect of the blasting is liable to change the course or channel of any stream without first obtaining a permit from the Division which has been approved by the Division of Mines and Quarries

~~(C)~~ § 7.3. Mudcapping in blasting operations shall be permitted only where the driller would be in a hazardous position in attempting to drill the rock or material to be

blasted.

~~(D)~~ § 7.4. All trunk lines of detonating cord [, having explosive loading exceeding three grains per foot,] should be covered, except that trunk lines of detonating cord must be covered if located within ~~eight hundred~~ 800 feet of any public highway, dwelling house, public building, school, church, or commercial or institutional building.

When the use of detonating cord could cause severe air blast problems, the Division of Mines may require all trunk lines to be covered with a minimum of six inches of loose earth.

~~(E)~~ § 7.5. In blasting operations, [fly rock is considered most hazardous and will not be tolerated fly rocks shall not be allowed to fall greater than one-half the distance between the blast and a dwelling house, public building, school, church, commercial or institutional building, and in no case beyond the line of property owned or leased by the operator]. For the purpose of this paragraph, fly rock shall be considered as any uncontrolled material generated by the effect of a blast and that would be potentially hazardous to personnel and/or property.

~~(F)~~ § 7.6. When operating near a highway, traffic must be stopped at a safe distance. Blasted material, if thrown on a public road, must be removed promptly. Regular blasting areas should be posted with warning signs.

~~(G)~~ § 7.7. Where a blasting operation is conducted in the vicinity of an active deep mine, the blaster shall observe all procedures necessary to secure the health and safety of the underground mine workers.

~~(H)~~ § 7.8. Blasting operations shall be conducted during daylight hours (one-half hour before sunrise to one-half hour after sunset) except by special permit issued by the Division of Mines and Quarries . Said permit is to be issued on the basis of safety.

~~(I)~~ § 7.9. Misfires, hangfires, etc., shall be handled in accordance with Section § 45.1-50 ; of the of the Code of Virginia. In addition, all other sections of Title 45 ; of the Code of Virginia ; pertaining to blasting must be carried out.

[§ 7.10. Before a blast is fired, a loud warning signal shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance, or under sufficient cover.

A code of blasting signals shall be posted in one or more conspicuous places at the operation, and all employees shall be required to familiarize themselves with the code and conform to it.

EXAMPLE:

Warning Signal - a one minute series of long blasts

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five minutes prior to the blast signal.

Blast Signal - a series of short blasts one minute prior to the shot.

All Clear Signal - a prolonged blast following the inspection of the blast area.]

(A) [§ 7.10. § 7.11.] These rules do not supersede or repeal any existing laws or regulations pertaining to blasting or blasting practices applicable to surface mining operations.

1977 SUPPLEMENT
EFFECTIVE FEBRUARY 15, 1977

RULE 8: EVALUATION OF BLAST SITE

**PART VIII.
EVALUATION OF BLAST SITE.**

(A) § 8.1. If the Chief of the Division of Mines concludes that blasting complaints are excessive from residents living in the vicinity of an operation over which it has control, the Division may impose more stringent limits on ground vibration than that specified in Rules 3, 4, and 5, PART III, IV, and V, and limits may be imposed on blast noise levels. The Chief may order an evaluation of the blast site by a vibration consultant and a technical representative of the explosives manufacturer, if he deems it necessary, before imposing a more stringent limit. Blasting will be stopped until the results of the evaluation and recommendations are submitted to the Chief Mine Inspector of the Division of Mines and permission granted to resume blasting. These requirements will remain in effect until rescinded by the Chief Mine Inspector of the Division of Mines and Quarries.

RULE 9: MONITORING AND REPORTING

**PART IX.
MONITORING AND REPORTING.**

(A) § 9.1. Monitoring and reporting of all blasts will be continued until the Chief Mine Inspector of the Division of Mines is satisfied that vibration and blast noise standards are met.

RULE 10: AUTHORITY TO LOWER PARTICLE VELOCITY LIMIT

**[PART X.
AUTHORITY TO LOWER PARTICLE VELOCITY LIMIT.**

(A) § 10.1. When a surface mine is within 2,000 feet of an inhabited building, with respect to ground vibration, the 2.0 inches per second ground particle velocity limit may be lowered to as low as .5 0.5 inches per second ground particle velocity.]

RULE 11: NOTIFICATION, INHABITED BUILDINGS

**PART [XI. X.]
NOTIFICATION, INHABITED BUILDINGS.**

(A) [§ 11.1. § 10.1] When an operator applies for a mine license, he shall indicate on the application, the distance to the nearest inhabited building.

RULE 12: NOTIFICATION TO DIVISION WHEN APPROACHING INHABITED BUILDINGS

**PART [XII. XI.]
NOTIFICATION TO DIVISION WHEN APPROACHING INHABITED BUILDINGS.**

(A) [§ 12.1. § 11.1.] During the course of mining, if an operator approaches within 2,000 feet of an inhabited building, he shall notify the Division of Mines fifteen (15) days prior to reaching the 2,000 foot limitation.

RULE 13: AUTHORITY TO REQUIRE INSTRUMENTATION

**PART [XIII. XII.]
AUTHORITY TO REQUIRE INSTRUMENTATION.**

(A) [§ 13.1. § 12.1.] If requested by the property owner registering a complaint, and deemed necessary by the Chief, peak particle velocity measurements using approved instrumentation shall be made for [all blasts adjacent to three consecutive blasts near] the structure in question to ensure that the [more stringent] ground vibration [limit is limits in Part III, § 3, are] not exceeded. All complaints will be verified by the Division of Mines before any action is taken.

RULE 14: NOISE BLAST LEVEL

**PART [XIV. XIII.]
NOISE BLAST LEVEL.**

(A) With respect to blast noise, the limit shall consist of the impulsive sound level of 140 db peak.

[§ 14.1. § 13.1.] Airblast shall not exceed the maximum limits listed below at the location of any private dwelling, public building, school, church, or community or institutional building. [If necessary to prevent damage, the Division of Mines may specify lower maximum allowable airblast levels than those listed in Table 14 for use in the vicinity of a specific blasting operation.]

Table [14 13] Airblast Limits

Lower Frequency Limit of measuring system, in Hz (+3db)	Measurement Level, in db
1	
0.1 Hz or Lower...Flat Response....	134 Peak
2 Hz or Lower....Flat Response....	133 Peak
6 Hz or Lower....Flat Response....	129 Peak
1	
C-weighted.....Slow Response....	105 Peak dbc

1. Only when approved by the regulatory authority.

**RULE 15: CHIEF MAY REQUIRE CONTINUING
MEASUREMENTS**

**PART [~~XV~~: XIV.]
CHIEF MAY REQUIRE CONTINUING
MEASUREMENTS.**

(A) [~~§ 15.1~~: § 14.1.] If requested by the property owner registering a complaint, and deemed necessary by the Chief, [~~sound level~~ *air blast*] measurements [*on three consecutive blasts*] using approved instrumentation shall be made [~~adjacent to~~ *near*] the structure in question to ensure that the maximum noise level limit is not exceeded. [*All complaints will be verified with the Division of Mines before any action is taken.*]

**RULE 16: PENALTY FOR FAILING TO MODIFY
BLASTING PROCEDURES WHEN ORDERED**

**PART [~~XVI~~: XV.]
PENALTY FOR FAILING TO MODIFY BLASTING
PROCEDURES WHEN ORDERED.**

(A) [~~§ 16.1~~: § 15.1.] Surface mine operators shall make such modifications to their blasting procedures as are necessary to conform with the more stringent ground vibration limits and [~~new blast noise~~ *air blast*] limits when and if imposed by the Division of Mines and Quarries. Failure to make such modifications will result in an order prohibiting the loading or firing of any explosive charge(s).

Final Regulations

CM-4
April, 1985



COMMONWEALTH OF VIRGINIA
Department of Mines, Minerals and Energy

Mine Index No.

Strip ()
Auger ()
Idle ()

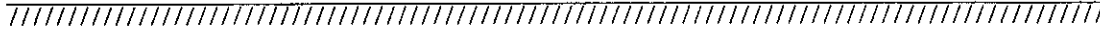
Division of Mines
219 Wood Avenue, Big Stone Gap, Virginia, 24219
Mine Inspection Report

Fed. I.D. No.

Date(s) of Inspection _____

Mine Telephone

Type of Inspection _____



Company _____ Mine No/Name _____

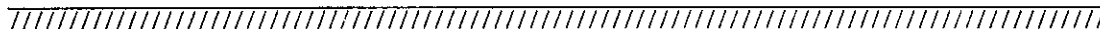
Address _____

Sup't _____ Foreman _____

Mine Location _____ County _____

Former Owner/Mine Index # _____

Employed each shift: 1 _____, 2 _____, 3 _____ Avg. daily tonnage _____



1. (a) Type of explosives _____ (b) Firing Agent _____

(c) Magazine? Yes () No () Type and condition _____

(d) Are explosives stored, transported, handled and fired in safe manner? Yes () No ()

(e) If not, explain _____

2. Conditions of highwalls _____ Of roadways _____

3. Distance from deep mine workings _____ Are they active? Yes () No ()

4. Distance from Oil or Gas Wells _____ Distance from property lines _____

5. Is fuel properly stored, transported and handled? Yes () No ()

6. Are auger holes covered at end of each work week? Yes () No ()

7. Is virgin coal being made inaccessible by auger holes? Yes () No ()

8. Have all recommendations of previous inspections been complied with? Yes () No ()

RECOMMENDATIONS: _____

Inspector _____

Final Regulations

* * * * *

Title of Regulations: VR 480-05-98. Rules and Regulations Governing Installation and Use of Cabs and Canopies.

Statutory Authority: § 45.1-104 (b1) of the Code of Virginia.

Effective Date: December 11, 1985

Summary:

This regulation provides for the safety of equipment operators in coal mines from roof falls and from overhead obstructions. The revisions provide a more effective and workable regulation.

VR 480-05-98. Rules and Regulations Governing Installation and Use of Cabs and Canopies.

**PART I
GENERAL REQUIREMENTS.**

To provide the minimum protection, a registered engineer must certify to the Chief Mine Inspector that the cab or canopy proposed to be used meets the following minimum standards outlined below:

Rule 1 § 1.1. It must be designed for the mine in which it will be used.

Rule 2 § 1.2. So installed that the minimum structural capacities will support a dead load weight of 18,000 pounds. It must be structurally strong enough to withstand a side load of 4,000 pounds.

Rule 3 § 1.3. The deck plate or mounting must withstand the same load which the cab or canopy is designed to support. Where possible the structure must be mounted on the main frame of the equipment.

Rule 4 § 1.4. Cabs or canopies must have a minimum of six inches of overhead clearance below the lowest projection of the roof or roof supports, if it extends above the machine on which it is mounted. *to prevent striking of the roof or roof supports.*

A. The Mine Inspector may require twelve inches (12") of overhead clearance if evidence is present that indicates that more clearance is needed.

B. Where the seam height is less than seventy two inches (72"); special attention must be given to the design before any cabs or canopies are installed.

Rule 5 § 1.5. The visibility of the operator shall not be obstructed by the design of the cabs or canopy to the extent that the operator must "lean" out of the structure to see where he is going.

Rule 6 § 1.6. The structure shall be wide enough to protect the operator from side obstructions such as ribs,

overhangs, timbers, etc.

A. The structure shall also be large enough so as not to restrict the operator to the extent that it would be hazardous for him to operate the machine.

Rule 7 § 1.7. Cabs or canopies that are adjustable must have minimum of clearance between segments. The bolt or pin used must withstand more than the shear weight of the designated load capacity.

Rule 8 § 1.8. The top plate must be "beveled" in the direction of travel to lessen the likelihood of dislodging or loosening roof supports.

Rule 9 § 1.9. Any other act or practice considered by the Chief Mine Inspector to be hazardous to the operator of the equipment or other mine personnel will result in an order requiring corrective measures.

Rule 10 § 1.10. Cabs or canopies for roof bolting machines will not be accepted as the sole means of temporary roof support unless they have been approved by the Chief Mine Inspector. They must be so designed as to be firmly positioned against the roof and mechanically held in place until permanent supports are installed. Unless the cab or canopy covers the entire area of unsupported roof to be bolted, safety jacks, or other adequate temporary supports, shall be installed in conjunction with the cab or canopy as prescribed in the roof support plan for the mine in which they are to be used. [*When other means of automated temporary support are employed, the cab or canopy does not have to be positioned against the roof.*]

Any violations of the above discovered by the State Mine Inspector shall result in a closure order being issued stating what constitutes the unsafe condition observed and the order shall specify that the equipment in question is not to be operated until the unsafe condition is corrected.

Final Regulations

CM-3
April, 1985

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
Division of Mines
219 Wood Avenue
Big Stone Gap, Virginia, 24219



Mine Index No. _____

Mine Telephone _____

Fed. I. D. No. _____

Office Telephone _____

Tipple ()
Truck ()
Gassy ()
Nongassy ()
Idle ()

Drift () Date(s) of Inspection _____

Shaft () Type of Inspection _____

Slope () _____

Company _____ Mine Name/No. _____

Address _____ Location of Mine _____

County _____ Seam/Thickness _____

Principal Owner _____

Sup't _____ Mine Foreman/Cert.No. _____

Total Employees _____ UG per shift: 1st _____ 2nd _____ 3rd _____ Sur. _____ Daily Tonnage _____

Approximate distance from portal to farthest face _____ Electric Power UG:AC _____ DC _____

Is license posted at mine? _____ Date of Map _____ Engineer _____

Briefly list types of mining equipment _____

Are gas or oil wells on property? Yes () No () Are gas lines near mine openings? Yes () No ()

Type and size of fan(s): Exhaust () Force () Fan Motive Power _____

VENTILATION:

Was methane detected? _____ Percentage? _____ Location? _____

Volume of air at main intake _____, at main return _____

Location of Air Measurement	Volume	Location of Air Measurement	Volume

Inspector _____

DEPARTMENT OF TAXATION

Title of Regulations: VR [~~630-2-322.1~~ 630-2-311.1]
Individual Income Tax: Net Operating Losses.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: January 1, 1986

Summary:

The final regulation does not differ substantively from the proposed regulation. Section 3 was amended to delete subsection C, Example 2 and line 5 (C) (2) of the Net Operating Loss Worksheet. This was done to simplify the computation of the Virginia loss year modification for the taxpayer. Section 4 was amended to add wording to clarify its intent. Section 6 was amended to add additional language to subsection B. This language clarifies what actions are required of a taxpayer when the amount of net operating loss exceeds the income of one spouse when Virginia filing status 4 was chosen in the carryback year. Additionally, the number of this regulation was changed due to a new section being added to the Code of Virginia by the 1985 session of the General Assembly.

All changes are nonsubstantive and are made pursuant to either public comments received or to actions of the General Assembly in order to make the regulation more easily understood.

VR [~~630-2-322.1~~ 630-2-311.1]. Individual Income Tax: Net Operating Losses.

§ 1. Definitions.

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

"Carryback year" means any year preceding the loss year in which a deduction for a federal net operating loss is claimed pursuant to I.R.C. § 172(b) for federal income tax purposes.

"Carryforward year" means any year subsequent to the loss year in which a deduction for a federal net operating loss is claimed pursuant to I.R.C. § 172(b) for federal income tax purposes.

"Federal net operating loss" means an amount equal to the amount defined by I.R.C. § 172(c).

"Loss year" means the taxable year to which the net operating loss is attributable.

"Net operating loss absorbed" means the amount of federal net operating loss as defined by I.R.C. § 172(c) that is either used to offset modified federal taxable

income in a carryback year or included in the computation of federal adjusted gross income in a carryforward year. In a carryback year, it is the amount necessary to reduce modified federal taxable income to zero, but not below zero. (See I.R.C. § 172(b)(2))

"Recomputed federal adjusted gross income" means the federal adjusted gross income as last determined for the carryback year, less the amount of net operating loss absorbed as defined above.

"Virginia modification" means the modifications specified in §§ 58.1-322 B and 58.1-322 C of the Code of Virginia that relate to federal adjusted gross income, the modifications to federal itemized deductions specified in § 58.1-322 D 1.a, the additional deduction of \$400 specified in § 58.1-322 D 2, the beneficiary modifications specified in § 58.1-322 E, and the transitional modifications specified in § 58.1-322 F. of the Code of Virginia.

§ 2. Generally.

There is no express statutory authority in the Code of Virginia for a separate Virginia net operating loss. Since, under § 58.1-322 of the Code of Virginia, the starting point on a Virginia individual income tax return is federal adjusted gross income, and the federal carryback or carryforward of a federal net operating loss is reflected in federal adjusted gross income, Virginia taxable income is indirectly affected by federal net operating losses to the extent that they are reflected in federal adjusted gross income.

§ 3. Virginia modifications in the loss year.

A. Generally.

Each item that is a component of the federal net operating loss must be examined to see if a Virginia modification is required to be made to that item. To the extent that a Virginia modification is required, the net amount of such modifications shall become associated with the federal net operating loss. (See § 4 below.)

In addition to the modifications enumerated under § 1 "Virginia Modifications," a modification shall be made to any other item that is a component of the federal net operating loss that Virginia law treats dissimilarly.

B. Zero bracket amount.

There is no provision in the Code of Virginia for the allowance of a deduction for an amount equal to the federal zero bracket amount. In cases where taxpayers for federal purposes do not itemize deductions, all or part of the federal zero bracket amount may be included in the amount of federal net operating loss. To the extent that any amount of the federal zero bracket amount is included in the federal net operating loss, a positive Virginia modification is required. (See example [4 3].)

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[C. State tax refund.

1. Under § 58.1-322 C 5 of the Code of Virginia, a taxpayer is allowed a subtraction from federal adjusted gross income for the amount of state tax refund included in federal adjusted gross income. (See § 3(D)(2) below)

2. In certain situations, a second off-setting Virginia modification may have to be made for the amount of state tax refund included in federal adjusted gross income. This occurs because the amount of state tax refund may increase the amount of federal net operating loss. In the computation of the federal net operating loss, the amount of loss before adjustments must be reduced by the excess of nonbusiness deductions over nonbusiness income. The greater the amount of nonbusiness income (up to the point it equals nonbusiness deductions) the less the loss will have to be reduced; therefore, the greater the amount of federal net operating loss. To the extent that the state tax refund is included in nonbusiness income and increases the amount of federal net operating loss (decreases the amount that the federal net operating loss must be reduced), a positive Virginia modification is required. (See example 2)]

[D. C.] Other modifications required.

1. A positive modification is required for the items enumerated in § 58.1-322 B of the Code of Virginia - Additions to federal adjusted gross income. Also see Regulation No. VR 630-2-322(B).

2. A negative modification is required for the items enumerated in § 58.1-322 C of the Code of Virginia - Subtractions from federal adjusted gross income. Also see Regulation No. VR 630-2-322(C).

3. A positive modification is required for the state tax deduction specified in § 58.1-322 D 1.a of the Code of Virginia, and a negative modification is required for the additional charitable mileage deduction allowed by this same section. Also see Regulation No. VR 630-2-322(D)(2).

4. A negative modification is required for the additional deduction of \$400 specified in § 58.1-322 D 2 of the Code of Virginia. Also see Regulation No. VR 630-2-322(D)(4).

§ 4. Treatment of the Virginia modifications in the loss year.

A. Modifications follow loss.

The addition, subtraction and itemized deduction or deduction for zero bracket amount modifications shall be combined. The net result of these loss year modifications will follow the federal loss to the year in which the loss is utilized. It will be applied in the same proportion as the

amount of loss that is absorbed. Thus, if the federal net operating loss is fully utilized in a carryback or carryforward year, the entire net amount of Virginia modifications will be applied to such year. If, however, the federal net operating loss is partially utilized in each of several years, the net Virginia modifications will be applied in the same ratio to the several years. For example, if 50% of a 1984 federal net operating loss is carried back to 1981, the 50% of the 1984 net Virginia modifications will also be carried back to 1981.

B. When Virginia modifications exceed net operating loss.

However, if in the loss year the positive Virginia modifications are greater than the federal net operating loss, Virginia negative modifications, plus the amount of Virginia personal exemptions and deductions, then Virginia taxable income for the loss year will be greater than zero. Under these circumstances, the net [positive] Virginia modification shall be limited to the amount of the federal net operating loss. For example, if the 1984 federal net operating loss is (\$9,000), Virginia additions are \$18,000, and Virginia subtractions are (\$5,000), then 1984 Virginia taxable income is \$2,100 (assuming the taxpayer is single, under age 65 and claims the Virginia standard deduction). The net modification (\$18,000 - \$5,000 = \$13,000) will be limited to the amount of federal net operating loss, i.e. \$9,000. Therefore, if \$6,000 of the federal net operating loss is carried back to 1981 then \$6,000 of the net [positive] Virginia modification will also be carried back to 1981.

C. Worksheet and examples.

The following worksheet or a facsimile thereof must be used and attached to the return to compute the amount of net Virginia modification in the loss year and the portion of this modification to be used in each of the carryback and/or carryforward years.

NET OPERATING LOSS MODIFICATION WORKSHEET 19...

Attach to the amended return for the carryback year and/or to the return for the carryforward year

1. Year of loss
2. Federal NOL for year of loss
3. Amount of federal NOL absorbed in this carryback or carryforward year
4. Percentage of NOL absorbed in this carryback or carryforward year (Line 3 divided by Line 2)
5. Virginia Modifications for year of the loss
 - a) Total Additions (Line 6 Form 760)
 - b) Total Subtractions (Line 9 Form 760)

c [(+)]) If Itemized Deductions Claimed - State Income Tax included in NOL

OR

If itemized Deductions Not Claimed - Federal ZBA included in NOL

[~~e(2)~~ State Tax Refund included in NBI*

d) Total State Tax Adjustment

e) Other

Total Net Modifications

6. Amount of Virginia Loss Year Modifications to be Applied to Carryback or Carryforward Year (Line 5 X Line 4)

[*Only to the extent that nonbusiness income reduces nonbusiness deductions and therefore lessens the amount that nonbusiness deductions decrease the NOL.]

Example 1.

In 1984, John and Mary Taxpayer suffered a federal net operating loss of \$26,560, which they carried back to 1981. The amount of the 1984 net operating loss absorbed in 1981 was \$9,296. They had \$520 of Virginia income tax (withholding) included in the federal net operating loss.

Their 1984 Virginia income tax return contained the following Virginia modifications:

Additions

A.C.R.S. \$400
 Deduction for married couple when both work .. \$325
 Total Additions \$725

Subtractions

State tax refund (excessive 1983 withholding) \$350
 Interest on obligations of the United States \$1,290
 A.C.R.S. \$110
 Total Subtractions \$1,750

The worksheet to compute the net Virginia modification from the loss year should be completed as follows:

Example 1

NET OPERATING LOSS MODIFICATION WORKSHEET 19 81

Attach to the amended return for the carryback year and/or to the return for the carryforward year

1. Year of loss 1984
2. Federal NOL for year of loss \$26,560
3. Amount of Federal NOL absorbed in this carryback

or carryforward year \$9,296

4. Percentage of NOL absorbed in this carryback or carryforward year (Line 3 divided by Line 2) ... 35%

5. Virginia Modifications for year of the loss

a) Total Additions (Line 6 Form 760) 725
 b) Total Subtractions (Line 9 Form 760) (\$1,750)
 c [(+)]) If Itemized Deductions Claimed - State Income Tax included in NOL 520
 OR

If Itemized Deduction Not Claimed - Federal ZBA included in NOL

[~~e(2)~~ State Tax Refund included in NBI* 0]

d) Total State Tax Adjustment 520

e) Other

Total Net Modifications (505)

6. Amount of Virginia Loss Year Modifications to be Applied to Carryback or Carryforward Year (Line 5 X Line 4) (177)

[*Only to the extent that nonbusiness income reduces nonbusiness deductions and therefore lessens the amount that nonbusiness deductions decrease the NOL.

Example 2.

Same as Example 1, except that \$175 of the 1983 State tax refund of \$350 resulted from estimated payments made in anticipation of incurring a tax liability from investment income. Since this was a refund of state tax designated for investment purposes, it is classified as nonbusiness income. On the federal Schedule A, Form 1045, line 8(a), the nonbusiness deductions equal \$15,350 and the nonbusiness income (line 8(b)) equals \$9,850. The nonbusiness portion of the state tax refund (\$175) is included in the nonbusiness income amount. In computing the federal net operating loss, nonbusiness deductions reduce the amount of net operating loss to the extent that they exceed nonbusiness income; therefore, the inclusion of the \$175 nonbusiness state tax refund has the effect of increasing (or not decreasing) the amount of net operating loss. To the extent that the state tax nonbusiness refund lessens the amount that nonbusiness deductions decrease the net operating loss, a Virginia modification is required. The worksheet to compute the net Virginia modification from the loss year should be completed as follows:

Example 2

NET OPERATING LOSS MODIFICATION WORKSHEET 19 81

Attach to the amended return for the carryback year and/or to the return for the carryforward year

1. Year of loss 1984
2. Federal NOL for year of loss 26,560

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3. Amount of Federal NOL absorbed in this carryback or carryforward year 9,296

4. Percentage of NOL absorbed in this carryback or carryforward year (Line 3 divided by Line 2) .. 35%

5. Virginia Modifications for year of the loss

a) Total Additions (Line 6 Form 760) 725
 b) Total Subtractions (Line 9 Form 760) (1,750)
 c(1) If Itemized Deductions Claimed - State Income Tax included in NOL 520

OR

If Itemized Deductions Not Claimed - Federal ZBA included in NOL

c(2) State Tax Refund included in NBI* 175

d) Total State Tax Adjustment 605

e) Other

Total Net Modifications (330)

6. Amount of Virginia Loss Year Modifications to be Applied to Carryback or Carryforward Year (Line 5 X Line 4) (115.50)

**Only to the extent that nonbusiness income reduces nonbusiness deductions and therefore lessens the amount that nonbusiness deductions decrease the NOL.]*

Example [3 2].

Same as Example [2 1], except that \$390 of the 1984 (loss year) Virginia income tax claimed as an itemized deduction was from estimated income tax payments based on anticipated investment income. First, the amount of state tax included in the net operating loss must be computed. [On the federal Schedule A Form 1045, line 8 (a), the nonbusiness deductions equal \$15,350 and the nonbusiness income line 8 (b) equals \$9,830.] For federal purposes, in computing the net operating loss, only \$390 of the state tax deduction claimed on federal Form 1040, Schedule A, is included in the nonbusiness deductions on the federal Form 1045, Schedule A. Since only 64.2% (9850/15350) of the nonbusiness deductions are included in the net operating loss, only \$250 (\$390 X 64.2%) of the nonbusiness portion of the state tax deduction is included in the net operating loss. The \$130 of state tax that is a business deduction (from withholding on wages) is included in the net operating loss also. Therefore, a total of \$380 (\$250 + \$130) of state tax is included in the net operating loss.

Example [3 2]

NET OPERATING LOSS MODIFICATION WORKSHEET 19 81

Attach to the amended return for the carryback year and/or to the return for the carryforward year

1. Year of loss 1984

2. Federal NOL for year of loss 26,560

3. Amount of Federal NOL absorbed in this carryback or carryforward year 9,296

4. Percentage of NOL absorbed in this carryback or carryforward year (Line 3 divided by Line 2) .. 35%

5. Virginia Modifications for year of the loss

a) Total Additions (Line 6 Form 760) 725

b) Total Subtractions (Line 9 Form 760) (1,750)

c) [~~(1)~~] If Itemized Deductions Claimed - State Income Tax included in NOL 380

OR
 If Itemized Deductions Not Claimed - Federal ZBA included in NOL

[c(2) State Tax Refund included in NBI* 175]

d) Total State Tax Adjustment 555

e) Other

Total Net Modifications (470)

6. Amount of Virginia Loss Year Modifications to be Applied to Carryback or Carryforward Year (Line 5 X Line 4) (164.50)

*[*Only to the extent that nonbusiness income reduces nonbusiness deductions and therefore lessens the amount that nonbusiness deductions decrease the NOL.]*

Example [4 3].

John and Mary Taxpayer suffered a federal net operating loss of \$26,560 in 1984, which they carried back to 1981. The amount of the 1984 net operating loss absorbed in 1981 was \$9,296. They did not itemize deductions in 1984. Because their nonbusiness income exceeded their nonbusiness deductions the entire federal zero bracket amount was included in the net operating loss.

Example [4 3]

NET OPERATING LOSS MODIFICATION WORKSHEET 19 81

Attach to the amended return for the carryback year and/or to the return for the carryforward year

1. Year of loss 1984

2. Federal NOL for year of loss 26,560

3. Amount of Federal NOL absorbed in this carryback or carryforward year 9,296

4. Percentage of NOL absorbed in this carryback or carryforward year (Line 3 divided by Line 2) .. 35%

5. Virginia Modifications for year of the loss

a) Total Additions (Line 6 Form 760)	725
b) Total Subtractions (Line 9 Form 760)	(1,750)
c [(+)]) If Itemized Deductions Claimed - State Income Tax included in NOL
OR	
If Itemized Deductions Not Claimed - Federal ZBA included in NOL	3,400
[e(2) State Tax Refund included in NBI*]
d) Total State Tax Adjustment	3,400
e) Other
Total Net Modifications	2,375

6. Amount of Virginia Loss Year Modifications to be Applied to Carryback or Carryforward Year (Line 5 X Line 4) 831

[*Only to the extent that nonbusiness income reduces nonbusiness deductions and therefore lessens the amount that nonbusiness deductions decrease the NOL.]

§ 5. Net operating loss carrybacks and carryovers.

A. Generally.

For Virginia purposes a net operating loss deduction is allowed only to the extent that it is allowed in computing federal adjusted gross income. Therefore, it must be carriedback or carried forward to the same year as for federal income tax purposes.

B. Exception.

There shall be no carryback of any net operating loss to any taxable years beginning prior to January 1, 1972. In the case of a net operating loss for federal income tax purposes that is carried back to any taxable year prior to January 1, 1972, the amount of such loss is to be carried forward for Virginia purposes and used to offset taxable income in successive tax years subsequent to 1972 until the amount of federal loss is offset.

§ 6. Filing status.

A. Generally.

Taxpayers shall use the same filing status for Virginia purposes as they do for federal purposes. In cases where the taxpayers use a different filing status for federal purposes in the loss year than in the carryback or carryforward year, the federal provisions of Treasury Reg. § 1.172-7 shall be applicable.

B. When taxpayers elect a different Virginia filing status.

Taxpayers may elect a different Virginia filing status in the loss year than they elected in the carryback or carryforward year. Section 58.1-341 of the Code of Virginia allows Virginia taxpayers who file a joint federal income tax return to file either a joint Virginia income tax return, separate Virginia income tax returns or to file either a joint Virginia income tax return, separate Virginia income

tax returns or to file separately on a combined return. (See VR 630-2-341(C))

1. When taxpayers elect on their Virginia return to file married, filing jointly in the loss year and to file separately or to file married filing separately on a combined return in the carryback or carryforward year, the loss and all Virginia loss year modifications shall [first] be claimed by the spouse who would have been entitled to claim the loss if separate returns or married filing separately on a combined return had been chosen in the loss year. [If the amount of loss exceeds the income of that spouse, then the taxpayers may exercise their election of changing their filing status to married filing jointly in the carryback or carryforward year.]

2. When taxpayers elect to file separate Virginia returns or elect to file separately on a combined return in the loss year and file married, filing jointly in the carryback or carryforward year, the loss and all Virginia loss year modifications attributable to both spouses for the loss year shall follow the loss to the carryback or carryforward year return.

§ 7. Preparation of the carryback year or carryforward year return.

A. Carryback year return.

The amended Virginia return for the carryback year shall start with the recomputed federal adjusted gross income. The net modifications from the NET OPERATING LOSS MODIFICATION WORKSHEET shall be entered on the line for "other" additions to federal adjusted gross income if positive, or shall be entered on the line for "other" subtractions from federal adjusted gross income if negative. This net modification for the loss year shall be combined with the modifications as originally claimed for the carryback year, the recomputed federal adjusted gross income, personal exemption amount and deduction amount to compute Virginia taxable income in the carryback year. Since the computation of the Virginia standard deduction and the amount of Virginia credit for taxpayers age 62 and over are both based upon the amount of federal adjusted gross income, these amounts must be recomputed in the carryback year to reflect the recomputed federal adjusted gross income.

1. The following forms and their supporting schedules must be included with the amended return.

a. NET OPERATING LOSS MODIFICATION WORKSHEET or facsimile.

b. Copy of the Virginia return for the loss year.

c. Copy of the federal Form 1045 or 1040X.

B. Carryforward year return.

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Since the net operating loss deduction is a component of federal adjusted gross income in the carryforward year, there is no need to recompute federal adjusted gross income for Virginia purposes. The net modification from the NET OPERATING LOSS MODIFICATION WORKSHEET shall be entered on the line for "other" additions to federal adjusted gross income if positive, or shall be entered on the line for "other" subtractions from federal adjusted gross income if negative. This net modification for the loss year shall be combined with the modifications of the carryforward year, federal adjusted gross income, personal exemption amount and deduction amount to compute Virginia taxable income in the carryforward year.

1. The following statements must be included with the carryforward year return.

a. NET OPERATING LOSS MODIFICATION WORKSHEET or facsimile.

b. Copy of the Virginia return for the loss year.

§ 8. When and where to file; interest.

A. When to file.

The provisions of § 58.1-1823 of the Code of Virginia set forth the statute of limitations for filing amended returns claiming a refund that reflect the carryback of a federal net operating loss. Generally, the amended carryback year return must be filed within the statutory period for filing the loss year return. (See VR 630-1-1823.)

B. Where to file.

The amended return for the carryback year is to be filed in accordance with the requirements of VR 630-2-343.

C. Interest.

Any overpayment of tax resulting from the carryback of a net operating loss will be deemed to have been made on the day on which the return for the loss year was filed or the due date of the loss year return (including extensions), whichever is later. (See VR 630-1-1833(E))

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.14:9.1 of the Code of Virginia)

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Title of Regulations: **Procedural Rules for the Conduct of Hearings Before the Board and its Hearing Officers and the Adoption or Amendment of Regulations (VR 125-01-1); Advertising (VR 125-01-2); Tied-House (VR 125-01-3); Requirements for Product Approval (VR 125-01-4); Retail Operations (VR 125-01-5); Manufacturers and Wholesalers Operators (VR 125-01-6); and Other Provisions (VR 125-01-7).**

Governor's Comment:

Pursuant to Executive Order 51 (84), I've reviewed the proposed and final proposed regulations of the Alcoholic Beverage Control Board that were forwarded to my office on July 31 and October 28, 1985, respectively. These regulations relate to happy hour, routine business entertainment and a variety of other administrative requirements proposed by the Alcoholic Beverage Control Board.

I have no objections to the proposed regulations as presented and want to take this opportunity to commend the Board for its continued attention to clarifying, simplifying and improving the quality of its regulations.

/s/ Charles S. Robb
Date: October 29, 1985

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

NOTICES OF INTENDED REGULATORY ACTION

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **Regulation Declaring *Iliamna corei*, Peter's Mountain Mallow, as an Endangered Plant.** *Iliamna corei* or Peter's Mountain Mallow, is a member of the Malvaceae plant family (mallow). There is only one known existing, naturally occurring population of this plant species in the world; in Giles County, Virginia. The population is very small, consisting of only five plants and is in danger of extinction due to pressures of competing vegetation, plant collecting, and low reproductive potential. The regulation would prevent the plants' collection and allow for a comprehensive recovery conservation program.

Statutory Authority: § 3.1-1025 of the Code of Virginia.

Written comments may be submitted to Raymond D. Vaughan, Secretary, Virginia Board of Agriculture and Consumer Services.

Contact: Raymond D. Vaughan, Secretary, Virginia Board of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank Street, Richmond, Va. 23209, telephone (804) 786-3501.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **Rules and Regulations Governing Brucellosis Calfhood Vaccination.** The purpose of the proposed regulations is to require brucellosis calfhood vaccination of all female cattle four months of age or older which enter the Commonwealth of Virginia for feeding and breeding purposes, and to require the same vaccination for female cattle of similar age that are sold at Virginia livestock markets for placement on Virginia farms. Such vaccinations will enhance the prevention, control and eradication of brucellosis from the

cattle population within Virginia.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Written comments may be submitted until December 31, 1985.

Contact: Dr. A. J. Roth, Chief, Bureau of Veterinary Services, Washington Bldg., Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **Rules and Regulations Governing the Transportation of Companion Animals and Horses.** The purpose of the proposed regulations is to specify those requirements to be met when transporting live companion animals and horses that will preclude the inhumane treatment of these animals and foster handling and care practices that will enhance their well-being during periods of transit within the state.

Statutory Authority: § 29-213.37 of the Code of Virginia.

Written comments may be submitted until December 31, 1985.

Contact: Dr. Tonya Higgins, Animal Welfare Officer, Bureau of Veterinary Services, Washington Bldg., Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483.

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **Regulations for the Control and Abatement of Air Pollution (VR 120-01).** The purpose of the intended amendments is to change the agency's regulations to provide the latest edition of referenced documents and to provide a consolidated list of referenced documents to facilitate easy location.

Statutory Authority: § 10-17.18(b) of the Code of Virginia.

Written comments may be submitted until November 27, 1985, to Robert A. Mann, Director of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Virginia 23240.

Contact: M. E. Lester, Division of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564.

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech Pathology intends to consider promulgating regulations entitled: "State Board of Examiners for Audiology and Speech Pathology." The board is considering a provision to its regulations which would allow individuals who have obtained both required education and experience to practice under direct licensed supervision pending results of initial examination. The board notes the need to allow services to be available to the public as a compelling reason to provide temporary permits.

Statutory Authority: § 54.1-28 (5) of the Code of Virginia.

Written comments may be submitted until December 11, 1985.

Contact: Geralde W. Morgan, Assistant Director, Commonwealth of Virginia, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8554 (toll-free number 1-800-552-3016).

STATE BOARD OF CORRECTIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider amending regulations entitled: **Minimum Standards for Jails and Lockups**. The purpose of the proposed amendments is to propose changes consistent with greater uniformity and interpretation for application thereof.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until December 1, 1985.

Contact: Vivian T. Toler, Confidential Secretary, State Board of Corrections, P. O. Box 26963, Richmond, Va.

23261, telephone (804) 257-6274.

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to the Certification of Criminal Justice Instructors**. The purpose of the proposed amendments is to update existing requirements for instructor certification.

This is part of the board's routine periodic review process.

Statutory Authority: § 9-170 (1) (11) of the Code of Virginia.

Written comments may be submitted until November 14, 1985 to Mr. L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: J. R. Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730.

VIRGINIA BOARD OF DENTISTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Dentistry intends to consider promulgating, amending and repealing regulations entitled: **Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed regulations is to regulate the practice of dentistry and dental hygiene.

Statutory Authority: § 54.1-163 of the Code of Virginia.

Written comments may be submitted until November 25, 1985.

Contact: Nancy T. Feldman, Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-0311.

VIRGINIA STATE LIBRARY BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library Board intends to consider amending regulations

General Notices/Errata

entitled: **Standards for the Microfilming of Public Records for Archival Retention (VR 440-01-137.1)**. The purpose of the proposed amendment is to provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming records of permanent value.

Statutory Authority: § 42.1-82 of the Code of Virginia.

This amendment is made to revise existing standards and to conform to revised national standards.

Written comments may be submitted until November 11, 1985.

Contact: Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library Board intends to consider amending regulations entitled: **Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process (VR 440-01-137.2)**. The purpose of the proposed amendments is to provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in a procedural microphotographic process for microfilming permanent records.

This proposed amendment is made to revise existing standards and to conform to revised national standards.

Statutory Authority: §§ 17-60, 17-70, 17-70.1, and 42.1-82 of the Code of Virginia.

Written comments may be submitted until November 11, 1985.

Contact: Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library Board intends to repeal regulations entitled: **Minimum Standards for Instruments Recorded by a Microphotographic Process (VR 440-01-137.3)**.

This regulation is superceded by Standards for Recorded

Instruments (VR 440-01-137.7).

Statutory Authority: § 41.1-82 of the Code of Virginia.

Written comments may be submitted until November 11, 1985.

Contact: Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library Board intends to consider amending regulations entitled: **Standards for the Microfilming of Ended Law, Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition (VR 440-01-137.4)**. The purpose of the proposed amendments is to provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law, chancery, and criminal cases.

Amendments made to revise existing standards and to conform to revised national standards.

Statutory Authority: §§ 17-17.4 and 42.1-82 of the Code of Virginia.

Written comments may be submitted until November 11, 1985.

Contact: Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library Board intends to consider amending regulations entitled: **Standards for Computer Output Microfilm (COM) for Archival Retention (VR 440-01-137.5)**. The purpose of the proposed amendments is to provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm generated for records of permanent value.

These amendments are being proposed to revise existing standards and to conform to revised national standards.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until November 11, 1985.

Contact: Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Nursing Homes Reimbursement Rates**. The purpose of the proposed amendments is to establish the methods by which the agency determines reimbursement rates for skilled and intermediate care nursing homes.

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

Written comments may be submitted until November 15, 1985.

Contact: Ray T. Sorrell, Director, Department of Medical Assistance Services, 109 Governor St., Suite 800, Richmond, Va. 23219, telephone (804) 786-7933.

BOARD OF MENTAL HEALTH AND MENTAL RETARDATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Mental Health and Mental Retardation intends to consider promulgating regulations entitled: **Rules and Regulations for the Licensure of Private Psychiatric Hospitals, Mental Health, Mental Retardation, and Substance Abuse Treatment and Rehabilitative Facilities**. The purpose of the proposed regulations is to replace existing licensure regulations for private psychiatric hospitals, group homes, halfway houses and substance abuse facilities; and to revise existing regulations pursuant to regulatory review.

Statutory Authority: Title 37.1, Chapter 8 (§ 37.1-179.1) and Chapter 11

Written comments may be submitted until January 20, 1986.

Contact: Mary Dunn Conover, Director, Quality Assurance Support, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-0070.

DEPARTMENT OF MOTOR VEHICLES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating regulations entitled: **Regulations for Titling and Registering Foreign Market Vehicles**. The Department of Motor Vehicles does not currently have formal, standardized policies or procedures for evaluating the safety features of vehicles manufactured outside the U. S. and not manufactured in accordance with U. S. safety standards, and regulations for processing title and registration applications are required to ensure compliance with applicable safety standards so that such vehicles do not endanger the public health and safety.

Statutory Authority: §§ 9-6.14:1 et seq., 46.1-26 and 46.1-56 of the Code of Virginia.

Written comments may be submitted until December 11, 1985.

Contact: Jerome L. Stein, Manager, Titles and Registration Division, Department of Motor Vehicles, P. O. Box 27412, Richmond, Va. 23269-0001, telephone (804) 257-0510.

BOARD OF REHABILITATIVE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Rehabilitative Services intends to consider promulgating regulations entitled: **Participation by Clients in Payment for Services**. The purpose of the proposed regulations is to develop a financial needs test to determine the amount, if any, that clients will be expected to contribute toward cost of services.

Statutory Authority: § 51.01-5 of the Code of Virginia.

Written comments may be submitted until December 11, 1985, to Dr. Leroy Smith, Department of Rehabilitative Services, 4901 Fitzhugh Avenue, P. O. Box 11045, Richmond, Virginia 23230.

Contact: George Meeks, Director, Legislative Services, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-0276 (toll-free number 1-800-552-5019)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of

General Notices/Errata

Rehabilitative Services intends to consider promulgating regulations entitled: **Rights of Clients**. The purpose of the proposed regulation is to ensure that equitable and fair treatment is provided to all individuals who receive services from the Department of Rehabilitative Services.

Statutory Authority: § 51.01-5 of the Code of Virginia.

Written comments may be submitted until December 11, 1985, to Dr. Leroy Smith, Department of Rehabilitative Services, 4901 Fitzhugh Avenue, P. O. Box 11045, Richmond, Virginia 23230.

Contact: George Meeks, Director, Legislative Services, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-0276 (toll-free number 1-800-552-5019)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Rehabilitative Services intends to consider promulgating regulations entitled: **Establishing a Reimbursement System**. These regulations are required to institute a reimbursement system to maximize the collection of fees from persons receiving services and from responsible third party payors.

Statutory Authority: § 51.01-5 of the Code of Virginia.

Written comments may be submitted until December 11, 1985, to Dr. Leroy Smith, Department of Rehabilitative Services, 4901 Fitzhugh Avenue, P. O. Box 11045, Richmond, Virginia 23230.

Contact: George Meeks, Director, Legislative Services, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-0276 (toll-free number 1-800-552-5019)

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **Regulation No. 6 - National Pollutant Discharge Elimination System (NPDES) Permit Program**. These regulations are being amended meet EPA requirements for obtaining State Delegation of the National Pretreatment Program.

Statutory Authority: § 62.1-44.15(3)(10) of the Code of Virginia.

Written comments may be submitted until December 4, 1985.

Contact: LaVern H. Corkran, Pretreatment Program Manager, 2111 N. Hamilton St., Richmond, Va. 23230, telephone (804) 257-6306.

GENERAL NOTICES

MARINE RESOURCES COMMISSION

Title of Regulation: **VR 450-01-0037, Marking of Oyster Planting Ground.**

The regulation was denied by the Marine Resources Commission at its September 24th, meeting.

NOTICE TO STATE AGENCIES

RE: Forms for filing material on dates for publication in The Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

PROPOSED (Transmittal Sheet) - RR01
FINAL (Transmittal Sheet) - RR02
NOTICE OF MEETING - RR03
NOTICE OF INTENDED REGULATORY ACTION - RR04
NOTICE OF COMMENT PERIOD - RR05
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06

NOTICE TO STATE AGENCIES

A list of major meetings of various trade associations and organizations is maintained in the office of the Registrar of Regulations. Upon request, this list will be made available to you in order that you can avoid conflicts when setting up meetings and hearings.

NOTICE TO TRADE ASSOCIATIONS AND ORGANIZATIONS

The 1985-1986 listing of major meetings of certain organizations and associations is being updated. If you would like your organization's annual or semi-annual

meeting listed, please advise the office of the Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Virginia 23208, telephone (804) 786-3591.

Written comments may be submitted until December 11, 1985, to Jean White, Director, Division of Child Support Enforcement, 8007 Discovery Drive, Richmond, Virginia 23288.

ERRATA

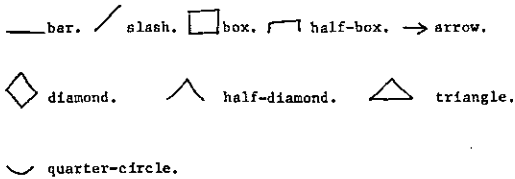
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Contact: Jane Clements, Chief, Bureau of Program Operations, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9074.

Title of Regulation: VR 115-02-06. Requirements Governing the Branding of Cattle in Virginia.

Issue: 2:2 VA.R., Pages 107 through 108, October 28, 1985

Page 108, subsection 3 of § 7.A. The chart printed below was omitted following subsection 3:



* * * * *

Title of Regulation: VR 115-04-17. Registration and Certification of Grape Nursery Stock.

Issue: 1:26 VA.R., pages 2360 through 2363, September 30, 1985

Page 2360, Column 2, Line 4 of definition: "Virginia Certified Grape Nursery Stock"

Replace the word "article", line should read:
accordance with the provisions of this "regulation".

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-70-2. Application Fee Scale.

This Notice of Intended Regulatory Action was inadvertently eliminated from publication in a previous issue.

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: Application Fee Scale (VR 615-70-2). The purpose of proposing a sliding scale for application fees is to allow people with a lesser income to better afford child support enforcement services.

Statutory Authority: § 63.1-250.2 of the Code of Virginia.

CALENDAR OF EVENTS

Symbol Key †

† Indicates entries since last publication of the Virginia Register

NOTICE: Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

THE VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Winegrowers Advisory Board

November 18, 1985 - 1 p.m. – Open Meeting
Boar's Head Inn Sports Club, Charlottesville, Virginia

Board members will review project proposals on marketing and research that have been submitted.

Contact: Lou Ann Ladin, Secretary-treasurer, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-0481

December 11, 1985 - 10 a.m. – Public Hearing
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to amend regulations entitled: **Rules and Regulations for Enforcement of The Virginia Pest Law - Cotton Boll Weevil Quarantine.** The Cotton Boll Weevil Quarantine declares Anthonomus grandis as a pest and provides rules and regulations to monitor for and eradicate this pest when found.

STATEMENT

Cotton boll weevil, Anthonomus grandis, has been described as the most costly insect in the history of American agriculture. It is thought to have crossed the Rio Grande at Brownsville, Texas in 1892, and was first detected in Virginia in 1922. The adult feeds on cotton bolls and leaves and the larva feeds only on the cotton bolls. Egg punctures on the bolls cause bolls to flare, turn yellow, and fall to the ground.

The regulations amend the current Cotton Boll Weevil Quarantine so Virginia can participate in a continued multistate cooperative effort to monitor and eradicate, if necessary, cotton boll weevil from Virginia, North Carolina, and South Carolina by requiring: (i) cotton growers to declare their intentions of acreage in cotton to be grown each year; and (ii) require a payment of \$10 per acre of cotton grown to defray the cost of the program.

The requested amendments were part of the original boll weevil quarantine adopted December 14, 1977, but were deleted on February 26, 1981, when eradication was achieved. Additional efforts are now needed to keep Virginia free of cotton boll weevil.

Statutory Authority: §§ 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

Written comments may be submitted until December 10, 1985.

Contact: Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3501

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

November 19, 1985 - 9:30 a.m. – Open Meeting
December 3, 1985 - 9:30 a.m. – Open Meeting
December 17, 1985 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Larry E. Gilman, 2901 Hermitage Rd., Richmond, Va., telephone (804) 257-0616

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

November 15, 1985 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to approve minutes of the July 10, 1985, meeting; and to review investigative cases.

Contact: Johnsie Williams, Assistant Director, State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8512

STATE BOARD FOR AUCTIONEERS

November 13-14, 1985 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal administrative hearing regarding State Board for Auctioneers v. George V. Hogue.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

BOARD OF BARBER EXAMINERS

December 9, 1985 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review applications for reinstatement of licenses; (ii) review investigative reports of complaints and determine disposition; (iii) consider correspondence pertinent to the operation of the board; and (iv) confer with barber school owners.

Contact: Mrs. Gale G. Moyer, Assistant Director, Virginia Board of Barber Examiners, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **November 15, 1985 - 10 a.m. - Open Meeting**
Fourth Street Office Building, 205 North Fourth Street, Second Floor Conference Room, Richmond, Virginia.

(Location accessible to handicapped.)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) approve minutes of previous meeting.

Contact: C. Sutton Mullen, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4751

BOARD OF COMMERCE

† **November 21, 1985 - 10 a.m. - Open Meeting**
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped)

A meeting to receive reports on enforcement, examination development, and administration of the Department of Commerce. The board may also consider any pending requests or proposals on regulation of professions or occupations.

Contact: Robert A. Nebiker, Sr., Deputy Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8541

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Soil and Water Conservation Board

December 4, 1985 - 9 a.m. - Open Meeting
Fort Magruder Inn, U.S. Route 60 East, Williamsburg, Virginia. (Location accessible to handicapped.)

January 16, 1986 - 9 a.m. - Open Meeting
Farm Credit Office, 6526 Mechanicsville Turnpike, Mechanicsville, Virginia

A regular bi-monthly business meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206, Richmond, Va. 23219-2094, telephone (804) 786-2064

BOARD OF CORRECTIONS

November 13, 1985 - 10 a.m. - Open Meeting
December 11, 1985 - 10 a.m. - Open Meeting
4615 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting to consider such matters

Calendar of Events

as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

BOARD OF COSMETOLOGY

† **November 18, 1985 - 9 a.m.** — Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 3, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

The board will (i) review investigative reports of complaints and determine disposition; (ii) review proposals from examination services; and (iii) consider general correspondence pertinent to the operation of the board.

3 p.m. - Practical Examination Committee Meeting.

Contact: Mrs. Gale G. Moyer, Assistant Director, Virginia Board of Cosmetology, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

CRIMINAL JUSTICE SERVICES BOARD

Committee on Criminal Justice Information Systems

January 7, 1986 - 3 p.m. — Public Hearing
805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II.** The purpose of this amendment is to ensure the completeness, accuracy, privacy, and security of criminal history record information, and to allow criminal justice agencies to establish reasonable fees for search and copying of criminal records.

STATEMENT

Basis and Purpose: The purpose of the proposed amendment is to allow criminal justice agencies to charge a reasonable fee for copying and research time expended in disseminating criminal history record information to noncriminal justice agencies/individuals.

Subject and Substance: Criminal history record information is exempt from the Freedom of Information Act and the Privacy Protection Act. This amendment will provide

criminal justice agencies with authority to charge for their record searches, as those agencies whose records are subject to FOIA and PPA now have.

Impact: An estimated 288 state and local criminal justice agencies will be authorized by regulations to establish reasonable fees for search time expended and copying when criminal history record information is requested by noncriminal justice agencies/individuals.

Compliance Cost: It is anticipated that there will be no compliance cost to those agencies who establish reasonable fees for search time expended and copying costs.

Implementation Costs: None.

Statutory Authority: §§ 9-170(1); 9-170 (20); 9-182 through 9-192 of the Code of Virginia

Written comments may be submitted until January 3, 1986 to J. W. Matthews, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219

Contact: J. R. Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730

BOARD OF DENTISTRY

December 5-6, 1985 - 8:30 a.m. — Open Meeting
Hilton Inn, 8th and Oceanfront, Virginia Beach, Virginia

A regularly scheduled meeting to discuss board business.

Contact: Nancy T. Feldman, Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-3011

BOARD OF EDUCATION

December 5-6, 1985 - 9 a.m. — Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

This is the regularly scheduled meeting of the Board of Education. Business will be conducted according to an agenda, which is available upon request. The public is reminded that the Board of Vocational Education may be convened, if necessary.

Contact: Margaret N. Roberts, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2540

Calendar of Events

STATE BOARD OF ELECTIONS

† **November 25, 1985 - 10 a.m.** – Open Meeting
State Capitol Building, Capitol Square, Senate Room 4,
Richmond, Virginia. (Location accessible to handicapped.)

Canvass of November 5, 1985 General Election.

Contact: M. Debra Mitterer, 101 Ninth Street Office Bldg.,
Richmond, Va. 23219, telephone (804) 786-6551

VIRGINIA FIRE BOARD

† **November 21, 1985 - 7:30 p.m.** – Public Hearing
Augusta County Fire Department, Route 250, Exit 57 off
Interstate 81, Staunton, Virginia. (Location accessible to
handicapped.)

A public hearing of the Virginia Fire Board to discuss
fire training, fire policies and open discussion with the
public.

† **November 22, 1985 - 9 a.m.** – Open Meeting
Holiday Inn, Exit 58 off Interstate 81, Staunton, Virginia.
(Location accessible to handicapped.)

An open meeting of the Virginia Fire Board to discuss
fire training and fire related subjects and policies.

Contact: Anne J. Bales, Department of Fire Programs,
James Monroe Bldg., 17th Floor, Richmond, Va. 23219,
telephone (804) 225-2681

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **November 17, 1985 - 9 a.m.** – Examination/Open
Meeting
November 18, 1985 - 9 a.m. – Examinations
November 19, 1985 - 9 a.m. – Examinations/Open Meeting
Ramada Hotel in Oldtown, 901 North Fairfax Street,
Alexandria, Virginia

Examinations on all three days and short board
meetings.

Contact: Mark L. Forberg, Executive Secretary, P. O. Box
27708, 517 W. Grace St., Richmond, Va. 23219, telephone
(804) 786-0076

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

† **December 6, 1985 - 10 a.m.** – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove

Avenue, Main Conference Room, Richmond, Virginia.
(Location accessible to handicapped.)

The board will advise the Director of the Department
of General Services and the Governor on architecture
of state facilities to be constructed and works of art to
be accepted or acquired by the Commonwealth.

Contact: Dorothy E. Ivankoe, Department of General
Services, 209 Ninth Street Office Bldg., Richmond, Va.
23219, telephone (804) 786-3311

Division of Consolidated Laboratory Services

December 5, 1985 - 2 p.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Conference
Room C, Richmond, Virginia. (Location accessible to
handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Department of
General Services, Division of Consolidated Laboratory
Services intends to amend regulations entitled:
Regulations for Breath Alcohol Testing. The proposed
amendments prescribe methods for determining the
alcohol content in the blood by chemical analysis of
the breath of a person arrested or detained for
suspicion of driving a motor vehicle while under the
influence of alcohol, establish procedures for licensing
persons to perform such analyses, and establish
criteria for approval of breath test instruments.

STATEMENT

Subject, Substance, Issues, Basis, and Purpose: In
accordance with §§ 18.2-267 and 18.2-268 of the Code of
Virginia, the Department of General Services, Division of
Consolidated Laboratory Services (DCLS) will amend its
existing regulations for Breath Alcohol Testing.

The proposed amendments will add a requirement that
licensed breath test operators use only equipment, supplies
and accessories for breath testing which are approved or
issued by DCLS; provide criteria for approval of breath
test devices; and provide for monitoring breath test
equipment. The amendments provide for publication of
lists of approved breath test devices in the Virginia
Register of Regulations. Other amendments clarify the
intent of the regulations and conform the format to the
requirements for publication in the Virginia Register of
Regulations.

Statutory Authority: §§ 18.2-267 and 18.2-268 of the Code of
Virginia.

Written comments may be submitted until December 5,
1985, to Dr. Paul Ferrara, 1 North 14th Street, Richmond,
Virginia 23219.

Contact: Peter Marone, Breath Alcohol Test Coordinator,

Calendar of Events

Department of General Services, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 225-3192

State Insurance Advisory Board

† **December 12, 1985 - 9:30 a.m.** – Open Meeting
College of William and Mary, Campus Center, Room C, Williamsburg, Virginia. (Location accessible to handicapped.)

Quarterly meeting of the State Insurance Advisory Board.

Contact: Charles F. Scott, Director, Department of General Services, Office of Risk Management, 805 E. Broad St., Room 117, Richmond, Va. 23219, telephone (804) 786-5968

VIRGINIA STATE BOARD OF GEOLOGY

November 13, 1985 - 9 a.m. – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Fifth Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes from the August 20, 1985, meeting; (ii) review examination results and work on additional examination questions; and (iii) review applications.

Contact: Johnsie Williams, Assistant Director, Geology Board, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8555

HAZARDOUS WASTE FACILITY SITING COUNCIL

November 20, 1985 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. (Location accessible to handicapped.)

The purpose of the meeting is to consider public comments received on the four proposed regulations and to consider adoption of the proposed regulations as final regulations.

Contact: Harry E. Gregori, Jr., Executive Director, James Monroe Bldg., 17th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-3235

STATE BOARD OF HEALTH

November 13-14, 1985 - 10 a.m. – Open Meeting
Westpark Hotel, Rosslyn, Virginia. (Location accessible to

handicapped.)

A regular business meeting of the board. An agenda for the meeting may be obtained after November 1, 1985.

Contact: Sally Camp, James Madison Bldg., Room 400, Richmond, Va. 23219, telephone (804) 786-3561

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November 15, 1985 - 10 a.m. – Public Hearing
James Madison Building, Main Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (VR 355-30-01)**. The purpose of the proposed amendments is to amend the capital and operating expenditure limits for review of COPN projects, not to include expenditures for major medical equipment.

STATEMENT

Summary, Purpose, Need:

A. Purpose: To amend the capital and operating expenditure limits for review of COPN projects excluding expenditures for major medical equipment. Affected provisions of the regulations:

Part I - Definitions "Acquisition" and "Project"

Part III - Mandatory Requirements - § 3.3.

Part V - Process for Exempting Medical Care Facility Projects from Review Procedures - § 5.1.A. and 5.1.B.

Part VI - Administrative Review Process - § 6.1

Need: To potentially reduce the number of medical care facility projects that are subject to review.

Without the regulation, a substantial increase in the proliferation of capital expenditures and duplicative health services would occur thereby affecting the total costs of health care borne by the public.

B. Consideration of alternative approaches were obviated based on general concurrence of the proposed capital and operating expenditure limits by the Virginia Hospital Association and Health Systems Agencies. Approximately 80% of the projects considered under the COPN program are hospital-related. The proposed regulations also comply favorably with the increased capital expenditure limits proposed by the federal government.

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

Calendar of Events

of Virginia.

Written comments may be submitted until November 15, 1985.

Contact: Marilyn H. West, Director, Division of Resources Development, James Madison Bldg., 109 Governor St., Room 1005, Richmond, Va. 23219, telephone (804) 786-7463

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- † **January 15, 1986 - 7 p.m.** – Public Hearings
The Warren/Green Building, 10 Hotel Street, Meeting Room, Warrenton, Virginia
- † **January 16, 1986 - 7 p.m.** – Public Hearing
Harrisonburg Electric Commission, 89 West Bruce Street, Community Room, Harrisonburg, Virginia
- † **January 20, 1986 - 7 p.m.** – Public Hearing
Central Virginia Community College, Wards Road South (Route 29), Lynchburg, Virginia
- † **January 21, 1986 - 7 p.m.** – Public Hearing
Circuit Court Room, Park and Main Streets, 1st Floor, Marion, Virginia
- † **January 23, 1986 - 7 p.m.** – Public Hearing
Suffolk Council Chambers, 411 Market Street, Suffolk, Virginia
- † **January 27, 1986 - 7 p.m.** – Public Hearing
Henrico Government Center, Parham & Hungary Springs Roads, Henrico County Board Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **Sewage Handling and Disposal Regulations**. The Sewage Handling and Disposal Regulations specifies criteria by which sewage is handled and disposed of in a safe and sanitary manner.

STATEMENT

Basis and Authority: Section 32.1-164B of the Code of Virginia, authorizes the board to promulgate regulations governing sewage disposal. Sections 32.1-164.2 through 32.1-164.4 specifically authorize regulation of septage disposal.

Purpose: The purpose of these regulations is to ensure that all sewage is handled and disposed of in a safe and sanitary manner; to guide the State Health Commissioner in his determination of whether a permit for handling or disposing of sewage should be issued or denied; and to guide the owner in the requirements necessary to receive a permit for handling and disposing of sewage.

Summary and Analysis: The amendments are proposed to implement House Bill 1385 (Ch. 391 of the 1985 Acts of Assembly): Land Disposal of Septage in Certain Counties. The proposed amendments expand the options available for the proper handling and disposal of septage.

Namely, stabilization of septage through lime stabilizations will become an option which can then be followed by the

application of the stabilized septage to suitable land. Another option outlined in the proposed amendments includes the shallow injection of septage into suitable land.

Impact: There are approximately 280 septage handlers in Virginia. Current regulations require septage handlers to be permitted to handle septage and before permitting they must demonstrate that they have an approved site for the disposal of septage. Septage disposal sites currently approved include the use of sewage treatment plants and anaerobic lagoons. There are situations where the above options are not available and the proposed amendments were developed to allow other methods by which septage may be disposed.

Statutory Authority: § 32.1-164B of the Code of Virginia.

Written comments may be submitted until January 27, 1986.

Contact: Robert W. Hicks, Director, Division of Sanitarian Services, 522 James Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3559

Bureau of Pharmacy Services

- † **January 16, 1986 - 10 a.m.** – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health, Bureau of Pharmacy Services intends to amend regulations entitled: **Virginia Voluntary Formulary**. The purpose of the proposed amendment is to add and delete a list of drugs of accepted therapeutic value, commonly prescribed and available from more than one source of supply.

STATEMENT

Statement of Subject, Substance, Issues, Basis and Purpose: The purpose of the Virginia Voluntary Formulary is to provide a list of drugs of accepted therapeutic value, commonly prescribed within the state which are available from more than one source of supply, and a list of chemically and therapeutically equivalent drug products which have been determined to be interchangeable. Utilization of the Formulary by practitioners and pharmacists enables citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards.

The proposed revised Virginia Voluntary Formulary adds and deletes drugs and drug products to the Formulary that became effective August 1, 1985. These additions and deletions are based upon recommendations of the Virginia Voluntary Formulary Council following its review of scientific data submitted by pharmaceutical manufacturers.

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The council makes its recommendations to the State Board of Health.

The Virginia Voluntary Formulary is needed to enable citizens of Virginia to obtain safe and effective drug products at a reasonable price consistent with high quality standards. Without the Formulary physicians, dentists, and pharmacists in Virginia would not have the assurance that those generic drug products that may be substituted for brand name products have been evaluated and judged to be interchangeable with the brand name products.

Statutory Authority: §§ 32.1-12 and 32.1-79 et seq. of the Code of Virginia.

Written comments may be submitted no later than 5 p.m., January 16, 1986.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, James Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

Division of Solid and Hazardous Waste Management

December 27, 1985 - 10 a.m. - Public Hearing
Monroe Building, 101 North 14th Street, Meeting Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **Regulations Governing the Transportation of Hazardous Materials.**

STATEMENT

Amendment 5 to the Regulations Governing the Transportation of Hazardous Materials.

Basis and Authority: Regulations Governing the Transportation of Hazardous Materials in the Commonwealth are based on the requirements of § 18.2-278.2 of the Code of Virginia. These statutory requirements reflect federal requirements contained in the Hazardous Materials Transportation Act of 1975 (PL 93-633, 49 USC 1801 et seq.), Federal Motor Carrier Safety Regulations contained in 49 USC 304, Interstate Commerce Act and 49 USC 1655, Department of Transportation Act. The proposed amendment is consistent with the Virginia statute and with the implementing federal regulations contained in Title 49, Code of Federal Regulation, Part 107, Subpart B, Parts 171-179 and Parts 390-397.

Purpose: The purpose of this amendment is to adopt changes made during 1984 in the federal regulations governing all modes of transportation of hazardous materials in commerce.

Summary and Analysis: This amendment revises the

regulations adopted on May 4, 1981 governing the manner and method by which hazardous materials are loaded, unloaded, packed, identified, marked, placarded, stored, and transported in Virginia. Changes reflected in this amendment deal with simplifying and clarifying requirements, correcting editorial errors and omissions, and extending dates for compliance with various sections of the regulations.

The major proposed changes include:

A clarification of § 1.04 to include all hazardous materials, hazardous substances and hazardous wastes transported in the Commonwealth as subject to the regulations.

An authorization that certain types of small arms ammunition used in rifles, shotguns and pistols be classed and offered for shipment as an ORM-D, a "consumer commodity," rather than a Class C Explosive. (49 FR No. 102 May 24, 1984, pp. 21933-21936).

A revision concerning the transportation of certain cryogenic liquids (49 FR No. 114 June 12, 1984, pp. 24306-24318).

An amendment to driver qualifications rules and the driving rules to prohibit the transportation, possession and use of drugs and other substances, such as opiates, hallucinogens, depressants, and stimulants (49 FR No. 215 November 5, 1984, pp. 44210-44216).

These proposed changes represent changes to U.S. Department of Transportation regulations proposed during 1984.

The amendment is necessary because compliance with federal regulations is accepted under the applicable Virginia statute (§ 18.278.7). Failure to maintain consistency with federal regulations would: (i) promote confusion in the regulated community, especially with regard to those persons engaged in interstate commerce; (ii) require enforcement officials to maintain provisions in two sets of regulations and (iii) undermine the development of standards for the safe transportation of hazardous materials, a situation which would have an adverse impact on emergency response activities.

Contact: Dr. Wladimir Gulevich, Director, Bureau of Hazardous Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667 (toll-free number 1-800-552-2075)

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December 27, 1985 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Meeting Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health

intends to amend regulations entitled: **Virginia Hazardous Waste Management Regulations.**

STATEMENT

Amendment 7 to the Virginia Hazardous Waste Management Regulations

Basis and Authority: Section 32.1-178 of the Code of Virginia directs the Board of Health to promulgate regulations as may be necessary. Extensive changes in the federal regulations promulgated in 1984 necessitate an amendment which keeps the Virginia Hazardous Waste Management program consistent with federal requirements, thus preserving the final authorization granted to the Virginia program, and maintaining its independent authority to enforce the Resource Conservation and Recovery Act (RCRA) provisions here in the Commonwealth.

Purpose: The State Board of Health and the State Health Commissioner promulgate these amended regulations in order to effectively monitor the generation, treatment, storage, transportation and disposal of hazardous waste in the Commonwealth. By regulating these activities, the Commonwealth protects life, health, property, and Virginia's environment.

Summary and Analysis: Amendment 7 proposes to incorporate changes in the federal regulations promulgated up to April 30, 1985. Other minor revisions, including editorial changes, additions of reference materials, or clarifying language, have been included for the convenience of the regulated community, and to maintain equivalence with the federal requirements for a hazardous waste management program.

The major changes in Amendment 7 are as follows:

1. Redefinition of what constitutes "solid waste" and "hazardous waste", in §§ 2 and 3.
2. Dioxin becomes a hazardous waste, in § 3.
3. Satellite hazardous waste accumulation points on a generator facility site are exempted from permitting requirements in § 6.
4. Special regulations are specified for certain kinds of hazardous waste.
5. Section 14 establishes special rulemaking and procedures for applying for variances of the regulations.

Contact: Dr. Wladimir Gulevich, Director, Bureau of Hazardous Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667 (toll-free number 1-800-552-2075)

VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

November 19, 1985 - 8:30 a.m. – Open Meeting
Williamsburg, Virginia (site to be determined)

A meeting of the Executive Committee, Analysis and Plans Development Committee, and the Program and Evaluation Committee

November 20, 1985 - 9 a.m. – Open Meeting
Williamsburg, Virginia (site to be determined)

A meeting of the council to conduct regular business and other committee work.

Contact: Raymond O. Perry, Assistant Commissioner, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6970

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

November 20, 1985 - 9:30 a.m. – Open Meeting
Blue Cross & Blue Shield of Virginia Building, 2015 Staples Mill Road, Virginia Room, Richmond, Virginia. (Location accessible to handicapped.)

A monthly business meeting of the council for the purpose of addressing financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Floor, Richmond, Va. 23219, telephone (804) 786-6371

STATE COUNCIL OF HIGHER EDUCATION

† **December 4, 1985 - 1 p.m. – Open Meeting**
James Monroe Building, 101 North 14th Street, 9th Floor, Richmond, Virginia. (Location accessible to handicapped.)

Monthly council meeting.

Contact: Council of Higher Education, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2137

DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

† **November 21, 1985 - 10 a.m. – Open Meeting**
Virginia Department of Highways and Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

A monthly meeting of State Highway and Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the

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highway system, and any other matters requiring board approval.

Contact: Oscar K. Mabry, Deputy Commissioner, Virginia Department of Highways and Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2703

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Board of Commissioners

† **November 19, 1985 - 10 a.m.** – Open Meeting
13 South 13th Street, Richmond, Virginia. (Location accessible to handicapped.)

This will be the regular monthly meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will review and, if appropriate, approve the minutes from the prior monthly meeting; will consider for approval and ratification mortgage loan commitments under its various programs; will review the Authority's operations for the prior month; and will consider such other matters and take such other actions as they 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.

Contact: Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **November 18, 1985 - 1 p.m.** – Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

The board's regular final business meeting to (i) review and approve the minutes from the prior meeting; (ii) to provide an opportunity for public comments; (iii) to review the report of the director on the operation of the Department of Housing and Community Development since the last board meeting; (iv) to hear reports of the committees of the board; and (v) consider other matters as they may deem necessary. The planned agenda of this meeting will be available at the above address of the board meeting one week prior to the date of the meeting.

Building Codes and Standards Committee

† **November 18, 1985 - 10 a.m.** – Open Meeting

Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A regularly scheduled meeting of the committee of the Board of Housing and Community Development to consider work items and issues in the area of building codes and standards and develop recommendations as deemed appropriate for review by the board.

Community Development Committee

† **November 18, 1985 - 10 a.m.** – Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A regularly scheduled meeting of the committee of the Board of Housing and Community Development to consider work items and issues in the area of community development and develop recommendations as deemed appropriate for review by the board.

Contact: Neal J. Barber, 205 N. Fourth Street, 7th Floor, Richmond, Va. 23219-1747, telephone (804) 786-1575

COMMISSION ON LOCAL GOVERNMENT

November 13-15, 1985 - 9 a.m. – Open Meeting
City of Hopewell - Prince George County area (site to be determined)

Oral presentations regarding the City of Hopewell's annexation action.

November 14, 1985 - 7:30 p.m. – Public Hearing
City of Hopewell - Prince George County area (site to be determined)

A public hearing regarding the City of Hopewell's annexation action.

December 16, 1985 - 9 a.m. – Open Meeting
Alleghany Highlands area (site to be determined)

Oral presentations regarding the proposed consolidation of the City of Covington, the City of Clifton Forge, and Alleghany County into the City of Alleghany Highlands.

December 16, 1985 - 7 p.m. – Public Hearing
Alleghany Highlands area (site to be determined)

A public hearing regarding the proposed consolidation of the City of Covington, the City of Clifton Forge and Alleghany County into the City of Alleghany Highlands.

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December 17, 1985 - 9 a.m. - Open Meeting
Alleghany Highlands area (site to be determined)

Oral presentations regarding the proposed consolidation of the City of Covington, the City of Clifton Forge and Alleghany County into the City of Alleghany Highlands.

Contact: Barbara Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

LONGWOOD COLLEGE

Board of Visitors

November 14-15, 1985 - 9:30 a.m. - Open Meeting
Longwood College, Virginia and Prince Edward Rooms, Farmville, Virginia. (Location accessible to handicapped.)

A regular quarterly meeting to handle affairs of the college.

Contact: Dr. Janet D. Greenwood, President, Longwood College, Farmville, Va. 23901, telephone (804) 392-9211 (SCATS 265-4211)

MARINE RESOURCES COMMISSION

† **November 26, 1985 - 9:30 a.m. - Open Meeting**
2401 West Avenue, Newport News, Virginia

The Marine Resources Commission normally meets on the fourth Tuesday each month, at 9:30 a.m., at the agency office, 24th Street and West Avenue, Newport News, Virginia. It hears and decides cases on fishing licensing; oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes, and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery Management and Conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Virginia S. Chappell, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, Va. 23607, telephone (804) 247-2208

BOARD OF MEDICINE

November 20, 1985 - 7:30 p.m. - Open Meeting
Williamsburg, Virginia (site to be determined)

A meeting of the credentials committee to review applications of applicants applying for reinstatement of licensure and licensure by examination.

November 21-23, 1985 - 8:30 a.m. - Open Meeting
Holiday Inn 1776, Williamsburg, Virginia. (Location accessible to handicapped.)

The board will meet to review reports, interview licensees and make decisions on discipline matters before the board on Thursday, Friday, and Saturday morning. At 1:30 p.m., Saturday, November 23rd, the full board will meet in open session to conduct general board business.

Contact: Eugenea K. Dorson, Executive Secretary, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

BOARD OF MEDICINE

† **January 16, 1986 - 1 p.m. - Public Hearing**
Holiday Inn, 6531 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Boards of Medicine and Nursing intend to adopt regulations entitled: **Regulations Governing the Certification of Nurse Practitioners (VR 465-07-1 and VR 495-02-1).**

NOTICE: Please refer to the Notice of Comment Period listed under the Board of Nursing.

BOARD OF MENTAL HEALTH AND MENTAL RETARDATION

† **November 20, 1985 - 10 a.m. - Open Meeting**
Eastern State Hospital, Williamsburg, Virginia. (Location accessible to handicapped.)

Joint meeting - State Mental Health and Mental Retardation Board and State Social Services Board. The agenda will be published November 13 and may be obtained by calling Jane Helfrich.

† **November 21, 1985 - 10 a.m. - Open Meeting**
Williamsburg Hilton, Williamsburg, Virginia. (Location accessible to handicapped.)

A regular monthly meeting. The agenda will be published November 13 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, Secretary, State Mental Health and Mental Retardation Board, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

Calendar of Events

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

December 2, 1985 - 10 a.m. – Public Hearing
Virginia Treatment Center for Children, 515 North 10th Street, Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to adopt regulations entitled: **Rules and Regulations for the Licensure of Correctional Psychiatric Facilities**. The proposed regulations will establish minimum requirements for staffing, programs and services, health and safety, management and record-keeping in correctional psychiatric facilities.

STATEMENT

Subject, Substance, Issues, Basis and Purpose: The proposed Rules and Regulations for the Licensure of Correctional Psychiatric Facilities are designed to establish minimum requirements for staffing client rights, organization and management, admissions, programs and services, health and safety procedures and recordkeeping in psychiatric facilities established in correctional facilities. Many prisoners are in need of mental health services while incarcerated. Federal court rulings have indicated that these prisoners are eligible for mental health treatment services. The Department of Corrections has received funding to expand the mental health treatment services that it provides to prisoners. State law requires that the Department of Mental Health and Mental Retardation license psychiatric facilities in the Commonwealth. The proposed regulations are intended to comply with the federal court rulings and state law.

The proposed rules and regulations will affect seven correctional units in which psychiatric facilities are planned to be established. The total number of beds involved is approximately 414.

Statutory Authority: §§ 37.1-179.1 and 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until December 2, 1985.

Contact: Joseph W. Avellar, Ph.D., Director, Office of Quality Assurance, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-0070

Mental Retardation Advisory Council

† **November 15, 1985 - 10 a.m. – Open Meeting**
James Madison Building, 109 Governor Street, 13th Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

A quarterly meeting to advise the State Board of Mental Health and Mental Retardation on matters pertaining to mental retardation services across the state.

Contact: Carol Singer-Metz, Director Mental Retardation Services, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-1746

State Abuse Advisory Council

Interagency Delinquency Prevention Coordination Board

November 13, 1985 - 1 p.m. – Open Meeting
Department of Corrections, 4615 West Broad Street, 1st Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A business meeting to discuss the Criminal Justice Services grant to the Department of Mental Health and Mental Retardation to include progress, minigrants, skills bank, prevention brochure, grants information, newsletter, and future plans.

Contact: Roberta Anne Culbertson, Ph.D., Office of Prevention, Information and Training, 203 Governor St., Richmond, Va. 23219, telephone (804) 786-6133

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

† **November 14, 1985 - 2 p.m. – Open Meeting**
622 Powell Avenue, Division's Abandoned Mine Land Conference Room, Big Stone Gap, Virginia. (Location accessible to handicapped.)

A public meeting to give interested persons an opportunity to be heard in regard to the Virginia FY86 Abandoned Mine Land grant application to be submitted to the office of Surface Mining for the reclamation of 31 abandoned mine land projects and administration of the Virginia Abandoned Mine Land Program.

Contact: Roger L. Williams, Abandoned Mine Land Manager, P.O. Drawer U, Big Stone Gap, Va. 24219, telephone (703) 523-2925

DEPARTMENT OF MOTOR VEHICLES

November 20, 1985 - 10:30 a.m. – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,

Richmond, Virginia

A project committee meeting to review provisions of the Motor Vehicle Dealer Licensing Act for consideration of changes, additions, or deletions.

Contact: Joe Chandler, Committee Chairman, Department of Motor Vehicles, 2300 W. Broad St., Richmond, Va. 23220, telephone (804) 257-0463

VIRGINIA MUSEUM OF FINE ARTS

Board of Trustees

November 21, 1985 - 11:30 a.m. - Open Meeting
January 16, 1986 - 11:30 a.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Museum Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

A general board meeting of the full board of trustees to receive (i) committee reports; (ii) staff reports; and (iii) review budget.

Finance Committee

November 21, 1985 - 10:30 a.m. - Open Meeting
January 16, 1986 - 10:30 a.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Payne Room, Members' Suite, Richmond, Virginia. (Location accessible to handicapped.)

A general meeting to discuss financial matters and review budget.

Contact: Mrs. Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Blvd. and Grove Ave., Richmond, Va. 23221, telephone (804) 257-0553/327-0553 SCATS

STATE BOARD OF NURSING

November 18-20, 1985 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia

A regular meeting of the Virginia State Board of Nursing to (i) consider matters related to nursing education programs; (ii) discipline of licensees; (iii) licensure by examination and endorsement; and (iv) other matters under the jurisdiction of the board.

Contact: Corinne F. Dorsey, R.N., Executive Director, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0377

† January 16, 1986 - 1 p.m. - Public Hearing
Holiday Inn, 6531 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Boards of Medicine and Nursing intend to adopt regulations entitled: Regulations Governing the Certification of Nurse Practitioners (VR 645-07-1 and VR 495-02-1).

STATEMENT

Purpose: The purpose of these regulations is to regulate the practice of certified nurse practitioners by establishing the requirements for certification of and practice by nurse practitioners and to provide for the Committee of the Joint Boards of Medicine and Nursing to administer the regulations. The regulations also establish an Advisory Committee on the Certification of Nurse Practitioners and establish the fees for certification. In addition, these regulations set the criteria for approval of nurse practitioner education programs and make provision for disciplinary action against those certified who are found to be in violation of the regulations. The regulations establish the basis for the Boards of Medicine and Nursing to fulfill their responsibility to protect the health, safety and welfare of the citizens of the Commonwealth through the certification of nurse practitioners.

Basis: §§ 45.367.11 and 54-274.1 of the Code of Virginia.

Impact: The proposed regulations would affect approximately 1400 certified nurse practitioners. Fees collected from those certified and applying for certification allow the two boards to administer the regulations as required by law. Fees proposed in these regulations will provide the funds necessary to fulfill this duty.

Written comments may be submitted until January 16, 1986.

Contact: Corinne F. Dorsey, Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0377

† January 28, 1986 - 1 p.m. - Public Hearing
Holiday Inn, 6531 West Broad Street, Richmond, Virginia
† February 12, 1986 - 1 p.m. - Public Hearing
Hotel Roanoke, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Nursing intends to adopt regulations entitled: Board of Nursing Regulations.

STATEMENT

Purpose: These proposed regulations establish the requirements for nursing education programs preparing persons for licensure as registered or licensed practical nurses in Virginia, to regulate the licensure of nurses and

Calendar of Events

discharge the duties required of the board by § 54-367.11 of the Code of Virginia in the protection of the health, safety and welfare of the citizens of the Commonwealth.

Basis: § 54-367.11 of the Code of Virginia.

Impact: The proposed regulations would affect approximately 70,000 registered and licensed practical nurses, 88 nursing education programs and approximately 7,000 annual applicants for licensure. The Board of Nursing depends on fees from licensees and applicants to fulfill its statutory responsibilities. Proposed changes in fees will allow the board to meet this obligation.

Written comments may be submitted until February 12, 1986.

Contact: Corinne F. Dorsey, Executive Director, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0377

STATE BOARD OF OPTICIANS

November 15, 1985 - 9:30 a.m. – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Fifth Floor, Conference Room 3, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review applications for reinstatement of licenses; (ii) review investigative reports of complaints and determine disposition; and (iii) consider general correspondence pertinent to the operation of the board.

Contact: Mrs. Gale G. Moyer, Assistant Director, Virginia State Board of Opticians, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

BOARD OF OPTOMETRY

† **November 25, 1985 - 8:30 a.m.** – Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

The board will hold informal conferences and conduct general business.

Contact: Charles S. Weiden, Acting Executive Director, Virginia Board of Optometry, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0131

ADVISORY BOARD ON PHYSICAL THERAPY

November 22, 1985 - 1:30 p.m. – Open Meeting
Holiday Inn 1776, Williamsburg, Virginia. (Location accessible to handicapped.)

A meeting to conduct general board business and respond to correspondence.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

BOARD OF PROFESSIONAL COUNSELORS

† **November 22, 1985 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 517 West Grace Street, Board Room, Richmond, Virginia

A meeting to (i) conduct general board business; (ii) review applications for licensure, supervision, and trainee status; (iii) make policies; (iv) respond to board correspondence and (v) regulatory review.

Contact: John W. Braymer, Ph.D., 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-7702

BOARD OF PSYCHOLOGY

† **December 5, 1985 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia

A meeting to (i) conduct general board business; (ii) review applications for licensure, supervision, and trainee status; (iii) make policies; (iv) respond to board correspondence; and (v) regulatory review.

Contact: John W. Braymer, Ph.D., 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-7702

RADFORD UNIVERSITY

Board of Visitors

† **November 12, 1985 - 2 p.m.** – Open Meeting
† **November 13, 1985 - 9:30 a.m.** – Open Meeting
Radford University, Preston Hall Board Room, Radford, Virginia. (Location accessible to handicapped.)

A general information meeting for governing board.

Contact: Deborah L. Brown, Director of Public Information and Relations, Radford University, Box 5760, Radford, Va. 24142-5760, telephone (703) 731-5324

VIRGINIA REAL ESTATE BOARD

† **November 20, 1985, 10 a.m.** – Open Meeting
Circuit Court Building, 300 Cedar Road, Courtroom 2,

Chesapeake, Virginia

The board will meet to conduct a formal administration hearing: Virginia Real Estate Board v. John Henry Martin, Broker Chesapeake, Virginia.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

† **November 25, 1985 - 9 a.m.** - Open Meeting
Boar's Head Inn, Tack Room, Charlottesville, Virginia

The board will approve minutes of the October 24, 1985 meeting, review investigative cases, review applications for licensure, appointments.

Contact: Julio G. Del Corso, III, Assistant Director for Real Estate, 3600 W. Broad St., 5th Floor, Room 523, Richmond, Va. 23230-4917, telephone (804) 257-8516

VIRGINIA RESOURCES AUTHORITY

November 12, 1985 - 10 a.m. - Open Meeting
The Mutual Building, 909 East Main Street, Authority Board Room, Suite 305, Richmond, Virginia

The board will meet to (i) approve minutes of the September 24 board meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they 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.

December 3, 1985 - 10 a.m. - Open Meeting
The Mutual Building, 909 East Main Street, Authority Board Room, Suite 305, Richmond, Virginia

The board will meet to (i) approve minutes of the November 12 board meeting; (ii) review the authority's operations for the prior month; and (iii) consider other matters and take other actions as they 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.

Contact: Shockley D. Gardner, Jr., Executive Director, P. O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

VIRGINIA SAFETY AND HEALTH CODES BOARD

November 19, 1985 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond,

Virginia. (Location accessible to handicapped.)

The agenda will include a discussion of the comments concerning the draft Virginia Hazard Communications amendment received during a public hearing on August 2, 1985. The board will also review three federal standards for possible adoption under § 9-6.14:4.1.C.4.(c) of the Administrative Process Act. These include: educational scientific diving amendment; power/lawnmowers amendment; and coke oven emissions amendment. The board will also be briefed on the comments received concerning the draft Virginia Confined Space Standard.

Contact: Janice L. Thomas, Virginia Occupational Safety and Health Chief Administrator, Virginia Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-5873

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

November 20, 1985 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to hear and render a decision on all Appeals of Denials of On-Site Sewage Disposal System Permits.

Contact: P. M. Brooks, 502 Madison Bldg., Richmond, Va. 23219, telephone (804) 786-1931

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

November 19, 1985 - 9 a.m. - Public Hearing
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The authority will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation. Prior to the public hearing, which starts at 10 a.m., the Authority will conduct its regular business meeting.

† **December 6, 1985 - 9 a.m.** - Public Hearing
State Capitol Building, Capitol Square, House Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The authority will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation. Prior to the public hearing, which

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starts at 10 a.m., the authority will conduct its regular business meeting.

Contact: Nic Walker, Executive Director, Virginia Small Business Financing Authority, 1000 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-3791

STATE BOARD OF SOCIAL SERVICES

† **November 20, 1985 - 2 p.m.** – Open Meeting
† **November 21, 1985 - 9 a.m.** – Open Meeting
Williamsburg Hilton, Kingsmill, Williamsburg, Virginia.
(Location accessible to handicapped.)

A work session and formal business meeting of the Board.

Contact: Phyllis Sisk, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9236

DEPARTMENT OF SOCIAL SERVICES

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **Real Property Disposition Period in the Aid to Dependent Children (ADC) Program (VR 615-01-8)**. The intent of the proposed amendment is to extend the current six-month excess real property disposition period for an additional three months, for a total of nine months.

STATEMENT

Subject: Proposed amendment to the following regulation: **Real Property Period in the Aid to Dependent Children (ADC) Program**. This amendment is being proposed for a 60-day public comment period.

Substance: It is the intent of the State Board of Social Services to extend the current six-month period for disposing of excess nonexempt real property for an additional three months. Under current regulations, when ownership of excess nonexempt real property exceeds the \$600 maximum resource limit, assistance is to be granted to the otherwise eligible assistance unit members for a period of six months, provided the unit agrees to dispose of the excess property and repay any assistance received during that period. The proposed regulation will extend for three months the period during which the assistance unit allowed to receive assistance, for a total of nine months, while making efforts to dispose of the excess property.

Issues: Prior to continuing assistance during the disposition period, the assistance unit must sign an agreement to repay the total amount of assistance received during the period, except that the amount to be repaid cannot exceed the net proceeds from the sale of the excess property.

If the property is not sold during the disposition period or assistance is terminated during the period because the assistance unit no longer meets other financial or categorical requirements, the entire amount of assistance paid during the period is an overpayment which is subject to recoupment and/or recovery.

Federal regulations specify that states must define what constitutes a good faith effort to dispose of the excess nonexempt real property. For the purpose of this requirement a "good faith effort" is defined as: an attempt to sell the excess nonexempt real property within a range of 10% of the fair market value. Attempts may include, but are not limited to, listing the property with a real estate company or advertising the property in various ways.

Basis: The proposed regulation is an option made available to states in § 2626 of the federal Deficit Reduction Act of 1984 (P.L. 98-369). Section 63.1-25 of the Code of Virginia delegates authority to the State Board of Social Services to promulgate rules and regulations necessary for operation of public assistance programs in Virginia.

Purpose: The purpose of the proposed regulation is to establish a more reasonable period for disposing of excess real property. The regulation would allow continuation of assistance for a period of nine months to otherwise eligible assistance units when an agreement to dispose of such excess nonexempt real property and repay any assistance received during the disposition period has been executed.

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

Written comments may be submitted until November 29, 1985, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carolyn Ellis, Supervisor, Economic Assistance Unit, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

Division of Licensing Programs

December 10, 1985 - 11 a.m. – Public Hearing
Henrico Government Center, Parham and Hungry Springs Roads, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Social Services, Division of Licensing Programs intends to adopt and repeal regulations entitled: **Standards and Regulations for Licensed Adult Day Care Centers**. The areas addressed by the requirements of this regulation include: administration, personnel, supervision, physical environment, programs and services, and emergencies.

STATEMENT

Basis: The statutory basis for these regulations is § 63.1-174 of the Code of Virginia. The Department of Social Services has approved draft standards and regulations for licensed adult day care centers for a 60-day public comment period.

Purpose: The purpose of standards and regulations for adult day care centers is to ensure a minimum level of health, safety, and well-being for the participants receiving care. The proposed revisions are designed to provide protective oversight of participants in group care in a flexible enough manner to accommodate changes during the lifetime of these standards. Emphasis has been placed on clarity and ease of comprehension.

Issues: The document is comprised of the following issues which impact adult care centers subject to licensure by the Department of Social Services: administration, personnel, supervision, physical environment, management of emergencies and programs and services which include: admission policies, health care, management of behavior, nutrition, food service and activities.

Impact: Under the current definition in the Code of Virginia, an adult day care center is a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults which is operated during a part of a day only, which provides supplementary care and protection of individuals who reside elsewhere. Section 63.1-172C of the Code of Virginia exempts a facility or portion of a facility licensed by the State Board of Mental Health and Mental Retardation, and the home or residence of an individual who cares for only persons related to him by blood or marriage from adult day care center licensure.

As of July 1985, 30 centers were licensed for a total capacity of 1,171 participants. Of these, 15 were private, not-for-profit; 11 were public not-for-profit; and 4 were operated for profit.

Statutory Authority: § 63.1-174 of the Code of Virginia.

Written comments may be submitted until December 10, 1985.

Contact: E. Louise Sparrer, Supervisor, Standards/Policy, Adult Programs, Division of Licensing Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free number 1-800-552-7091)

VIRGINIA BOARD OF SOCIAL WORK

† **November 15, 1985 - 9 a.m. – Open Meeting**
Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia

A meeting to (i) conduct general board business; (ii) review applications; and (iii) to respond to correspondence.

Contact: John W. Braymer, Ph.D., Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-7703

SOLID WASTE COMMISSION

† **December 11, 1985 - 10:30 a.m. – Open Meeting**
State Capitol Building, Capitol Square, House Room 1, Richmond, Virginia. (Location accessible to handicapped.)

A general business meeting, and a discussion of low-level radioactive waste management and SJR 105.

Contact: Cheryl Cashman, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-4169

DEPARTMENT OF TAXATION

November 12, 1985 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-3-446.1. Corporation Income Tax: Foreign Sales Corporations.** This regulation sets forth the treatment of corporations which own and/or transact business with an FSC, Small FSC or interest charge DISC.

STATEMENT

Basis: This regulation is issued under authority granted by § 58.1-203 of the Code of Virginia.

Purpose: This regulation sets forth the policies and procedures relating to the Virginia tax treatment of corporations which own and/or transact business with affiliated corporations qualifying under the Internal Revenue Code as Foreign Sales Corporations, Small Foreign Sales Corporations and Domestic International Sales Corporation for taxable years beginning on and after January 1, 1985.

Issues: The Federal Tax Reform Act of 1984 created three new types of corporations which could be used to defer or exempt from federal income tax a portion of foreign trade income of a taxpayer. For state tax purposes, use of one of these three new types of corporations also changes the character of income to the form of dividends. In many, if not most, cases these corporations will be "paper" corporations exempt from the arms length standards of the Internal Revenue Code § 482. The issue raised by this new

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federal device is whether or not Virginia will recognize the artificial shifting and recharacterization of income under federal law.

Substance: This regulation specifies that no adjustments or consolidation will be required under Virginia Code § 58.1-446 for Foreign Sales Corporations and Small Foreign Sales Corporations.

An adjustment will be required in the case of taxpayers owning or transacting business with affiliated interest charge Domestic International Sales Corporations. The adjustment will normally be based upon consolidation of the DISC with the parent/taxpayer. This parallels the established policy with respect to DISC's under prior law.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

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† **January 10, 1986 - 10 a.m.** – Public Hearing
Department of Taxation, 2220 West Broad Street,
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled:
Cigarette Sales Below Wholesale Cost Act (VR 630-27-286, VR 630-27-287, VR 630-27-288, VR 630-27-289, VR 630-27-290, VR 630-27-291, VR 630-27-292, and VR 630-27-293).

STATEMENT

Purpose: These regulations set forth the policies and procedures relating to the enforcement upon wholesalers of the Cigarette Sales Below Wholesale Cost Act.

Estimated Impact:

Numbers and Type of Regulated Entities: These regulations will affect 175 licensed tobacco wholesalers.

Projected Cost to Regulated Entities: Any cost incurred by the tobacco wholesalers affected by the regulations will be minimal.

Projected Cost to Agency: Cost to the Agency will be affected by the number of complaints filed by tobacco wholesalers and hearings conducted by the department. Total cost should be minimal.

Statutory Authority: §§ 58.1-203 and 59.1-291 of the Code of Virginia.

Written comments may be submitted until January 10, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

December 5, 1985 - 5 p.m. – Open Meeting
December 6-7, 1985 - 8 a.m. – Open Meeting
Alumni House, 500 Richmond Road, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors of The College of William and Mary to receive reports from several committees of the board and to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals and/or organizations who request it.

Contact: Office of University Communications, James Blair Hall, Room 308, College of William and Mary, Williamsburg, Va. 23185, telephone (804) 253-4226

BOARD OF VETERINARY MEDICINE

† **December 10-11, 1985 - 9 a.m.** – Testing
† **December 12, 1985 - 9 a.m.** – Open Meeting
Virginia Polytechnic Institute and State University,
Ballroom, Blacksburg, Virginia

The national board examination to veterinarians on December 10, 1985.

The clinical competency test to veterinarians on December 11, 1985.

A general business meeting and informal conferences on December 12, 1985.

Contact: Charles S. Weiden, Virginia Board of Veterinary Medicine, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0069

VIRGINIA COMMONWEALTH UNIVERSITY

Board of Visitors

November 21, 1985 - 9 a.m. – Open Meeting
University Meeting Center, 101 North Harrison Street

(corner of Harrison and Floyd Streets), Richmond, Virginia. (Location accessible to handicapped.)

A regular meeting of the Board of Visitors to discuss issues regarding Virginia Commonwealth University. Agenda will be available five working days prior to the meeting.

Contact: Carole Roper, University Relations, 826 W. Franklin St., Richmond, Va. 23284, telephone (804) 257-1231 or 786-7329

VIRGINIA DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

December 7, 1985 - 10:30 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A quarterly meeting to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: George A. Koger, Executive Assistant, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3148

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

November 13, 1985 - 10 a.m. - Open Meeting
Pavilion Tower, 1900 Pavilion Drive, Virginia Beach, Virginia. (Location accessible to handicapped.)

Meetings of the committee on state planning and committee on evaluation.

November 14, 1985 - 8:30 a.m. - Business Session
Pavilion Tower, 1900 Pavilion Drive, Virginia Beach, Virginia. (Location accessible to handicapped.)

The council will receive reports from the Standing Council Committee; Department of Education; Virginia Community College System; and the Governor's Job Training Coordination Council.

Contact: George S. Orr, Jr., Executive Director, Council on Vocational Education, P. O. Box U, Blacksburg, Va. 24060, telephone (703) 961-6945

STATE WATER CONTROL BOARD

December 3, 1985 - 7:30 p.m. - Open Meeting
Roanoke City Council Chamber, 215 Church Avenue,

Roanoke, Virginia. (Location accessible to handicapped.)

December 4, 1985 - 2 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to inform the public of the State Water Control Board's intention to amend its Regulation 6 (NPDES) in order to obtain pretreatment program delegation from the EPA. Public input on the proposal will also be sought.

Contact: LaVern H. Corkran, State Water Control Board, 2111 N. Hamilton St., Richmond, Va. 23230, telephone (804) 257-6306

COUNCIL ON THE STATUS OF WOMEN

† **December 10, 1985 - 9:30 a.m. - Open Meeting**
Department of Social Services, 8007 Discovery Drive, Koger Executive Complex, Blair Building Conference Rooms A & B, Richmond, Virginia. (Location accessible to handicapped.)

A regular meeting of the council to conduct general business and receive reports from the council committees.

Contact: Bonnie H. Robinson, Executive Director, Virginia Council on the Status of Women, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9200

LEGISLATIVE

VIRGINIA ALCOHOL SAFETY ACTION PROGRAM SUBCOMMITTEE

† **November 18, 1985 - 9:30 a.m. - Public Hearing**
Shenandoah National Park, Skyland Lodge, Mountain Room, Luray, Virginia

† **November 19, 1985 - 9:30 a.m. - Public Hearing**
Martha Washington Inn, Ball Room, Abingdon, Virginia

† **December 3, 1985 - 9:30 a.m. - Public Hearing**
Chamberlin Hotel, Monroe Room, Fort Monroe, Virginia

These public hearings have been scheduled to review the relationship between the Commonwealth and local ASAP programs.

Contact: Anne R. Howard, House of Delegates Clerk's Office, P. O. Box 406, Richmond, 23203, telephone (804) 786-7681 or Oscar Brinson, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

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AMUSEMENT RIDE SAFETY JOINT SUBCOMMITTEE

November 12, 1985 - 10 a.m. — Public Hearing
George Mason University, 4400 University Drive, Student
Union 2, Rooms 3 and 4, Fairfax, Virginia

The joint subcommittee will hold a public hearing on amusement park safety inspections and how such an inspection program might best be implemented in the Commonwealth. A work session on proposed legislation will follow the public hearing.

Contact: Barbara H. Hanback, House of Delegates, General Assembly Bldg., Richmond, Va. 23219, telephone (804) 786-7681 or Jessica Bolecek, Staff Attorney, Division of Legislative Services, General Assembly Bldg., Richmond, Va. 23219, telephone (804) 786-3591

HOUSE APPROPRIATIONS COMMITTEE

November 18, 1985 - 9:30 a.m. — Open Meeting
General Assembly Building, Capitol Square, 9th Floor
Committee Room, Richmond, Virginia. (Location accessible
to handicapped.)

A regular monthly meeting.

Contact: Donna C. Johnson, House Appropriations
Committee, General Assembly Bldg., 9th Floor, Capitol
Square, Richmond, Va. 23219, telephone (804) 786-1837

INDIGENT HEALTH CARE JOINT SUBCOMMITTEE

† **November 20, 1985 - 10 a.m.** — Open Meeting
General Assembly Building, Capitol Square, 9th Floor
Committee Room, Richmond, Virginia. (Location accessible
to handicapped.)

A meeting to study alternatives for a state indigent
health care policy. (HJR 210)

Contact: Donna C. Johnson, House Appropriations
Committee, General Assembly Bldg., 9th Floor, Capitol
Square, Richmond, Va. 23219, telephone (804) 786-1837

SAVINGS AND LOAN LAWS INTEREST RATES SUBCOMMITTEE JOINT SUBCOMMITTEE

November 18, 1985 - 2 p.m. — Open Meeting
December 16, 1985 - 2 p.m. — Open Meeting

General Assembly Building, Capitol Square, 6th Floor
Conference Room, Richmond, Virginia. (Location accessible
to handicapped.)

A subcommittee meeting to study the interest rate
laws of the state of Virginia.

Contact: C. William Cramme, III, Staff Attorney, Division
of Legislative Services, General Assembly Bldg., P. O. Box
3-AG, Richmond, Va. 23208, telephone (804) 786-3591

SENATE COMMITTEE ON FINANCE AND HOUSE COMMITTEE ON CLAIMS JOINT SUBCOMMITTEE

November 12, 1985 - 2 p.m. — Open Meeting
General Assembly Building, Capitol Square, Senate Room
A, Richmond, Virginia. (Location accessible to
handicapped.)

A working session studying "Victims of Crime Claims
Act."

Contact: Thomas C. Gilman, Senate Committee Clerk, P. O.
Box 396, Richmond, Va. 23203, telephone (804) 786-5742 or
Bess Hodges, Senate Finance Office, P. O. Box 396,
Richmond, Va. 23219, telephone (804) 786-4400

CHRONOLOGICAL LIST OPEN MEETINGS

November 12

Finance, Senate Committee on
Claims, House of Delegates Committee
Victims of Crime Claims Act
Joint Subcommittee
Radford University
Board of Visitors
Resources Authority, Virginia

November 13

Auctioneers, State Board for
Corrections, State Board of
Geology, Virginia State Board of
Health, State Board of
Local Government, Commission on
Mental Health and Mental Retardation, Department of
Interagency Delinquency Prevention
Coordination Board
Radford University
Board of Visitors
Vocational Education, Virginia Council on

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November 14

Auctioneers, State Board of
Health, State Board of
Local Government, Commission on
Longwood College
Board of Visitors
Mines, Minerals and Energy, Department of
Vocational Education, Virginia Council on

November 15

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
Building Code Technical Review Board, State
Local Government, Commission of
Longwood College
Board of Visitors
Mental Health and Mental Retardation, Department of
Mental Retardation Advisory Council
Opticians, Virginia State Board of
Social Work, Board of

November 17

Funeral Directors and Embalmers, Virginia Board of

November 18

Agriculture and Consumer Services, Virginia
Department of
Virginia Winegrowers Advisory Board
Appropriations Committee, House
Cosmetology, Board of
Funeral Directors and Embalmers, Virginia Board of
Housing and Community Development, Board of
Nursing, Virginia State Board of
Savings and Loans Laws
Interest Rate Subcommittee
Joint Subcommittee

November 19

Alcoholic Beverage Control Board, Virginia
Funeral Directors and Embalmers, Virginia Board of
Health Coordinating Council, Virginia Statewide
Housing Development Authority, Virginia
Nursing, Virginia State Board of
Safety and Health Codes Board, Virginia

November 20

Hazardous Waste Facility Siting Council
Health Coordinating Council, Virginia Statewide
Health Services Cost Review Council, Virginia
Indigent Health Care
Joint Subcommittee
Medicine, Virginia Board of
Credentials Committee
Mental Health and Mental Retardation, Board of
Motor Vehicles, Department of
Nursing, Virginia State Board of
Real Estate Board, Virginia
Sewage Handling and Disposal Appeals Review Board,
State
Social Services, State Board of

November 21

Commerce, Board of
Virginia Commonwealth University
Board of Visitors
Fire Board, Virginia
Highways and Transportation, Virginia Department of
Medicine, Board of
Mental Health and Mental Retardation, Board of
Museum of Fine Arts, Virginia
Museum of Fine Arts, Virginia
Finance Committee
Social Services, State Board of

November 22

Medicine, Board of
Physical Therapy, Advisory Board on
Professional Counselors, Board of

November 23

Medicine, Board of

November 25

Elections, State Board of
Optometry, Virginia Board of

November 26

Marine Resources Commission

December 3

Alcoholic Beverage Control Board, Virginia
Resources Authority, Virginia
Water Control Board, State

December 4

Conservation and Historic Resources, Department of
Virginia Soil and Water Conservations Board
Higher Education, State Council of
Water Control Board, State

December 5

Dentistry, Board of
Education, Board of
Psychology, Board of
The College of William and Mary
Board of Visitors

December 6

Dentistry, Board of
Education, Board of
General Services, Department of
Art and Architectural Review Board
Small Business Financing Authority, Virginia
The College of William and Mary
Board of Visitors

December 7

The College of William and Mary
Board of Visitors
Visually Handicapped, Virginia Department for the
Advisory Committee on Services

Calendar of Events

December 9

Barber Examiners, Virginia Board of

December 10

Veterinary Medicine, Board of
Women, Council on the Status of

December 11

Corrections, State Board of
Solid Waste Commission
Veterinary Medicine, Board of

December 12

General Services, Department of
State Insurance Advisory Board
Veterinary Medicine, Board of

December 16

Local Government, Commission on
Savings and Loans Laws
Interest Rates Subcommittee
Joint Subcommittee

December 17

Alcoholic Beverage Control Board, Virginia
Local Government, Commission on

January 16, 1986

Conservation and Historic Resources, Department of
Virginia Soil and Water Conservations Board
Museum of Fine Arts, Virginia
Museum of Fine Arts, Virginia
Finance Committee

PUBLIC HEARINGS

November 12

Amusement Ride Safety
Joint Subcommittee
Taxation, Department of

November 14

Local Government, Commission on

November 15

Health, Board of

November 18

Alcohol Safety Action Program, Virginia
Subcommittee

November 19

Alcohol Safety Action Program, Virginia
Subcommittee
Small Business Financing Authority, Virginia

December 2

Mental Health and Mental Retardation, Department of

December 3

Alcohol Safety Action Program, Virginia
Subcommittee

December 5

General Services, Department
Division of Consolidated Laboratory Services

December 10

Social Services, Virginia Department of
Division of Licensing Programs

December 11

Agriculture and Consumer Services, Virginia
Department of

December 16

Local Government, Commission on

December 27

Health, Virginia Department of

January 7, 1986

Criminal Justice Services Board

January 10

Taxation, Department of

January 15

Health, Board of

January 16

Health, Board of
Health, Department of
Bureau of Pharmacy Services
Medicine, Board of
Nursing, State Board of

January 20

Health, Board of

January 21

Health, Board of

January 23

Health, Board of

January 27

Health, Board of