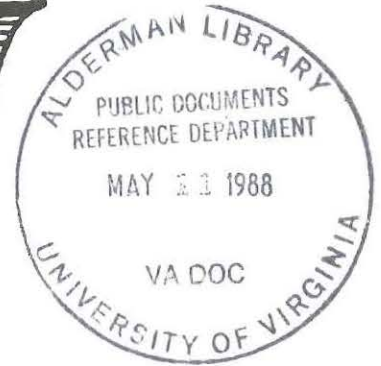
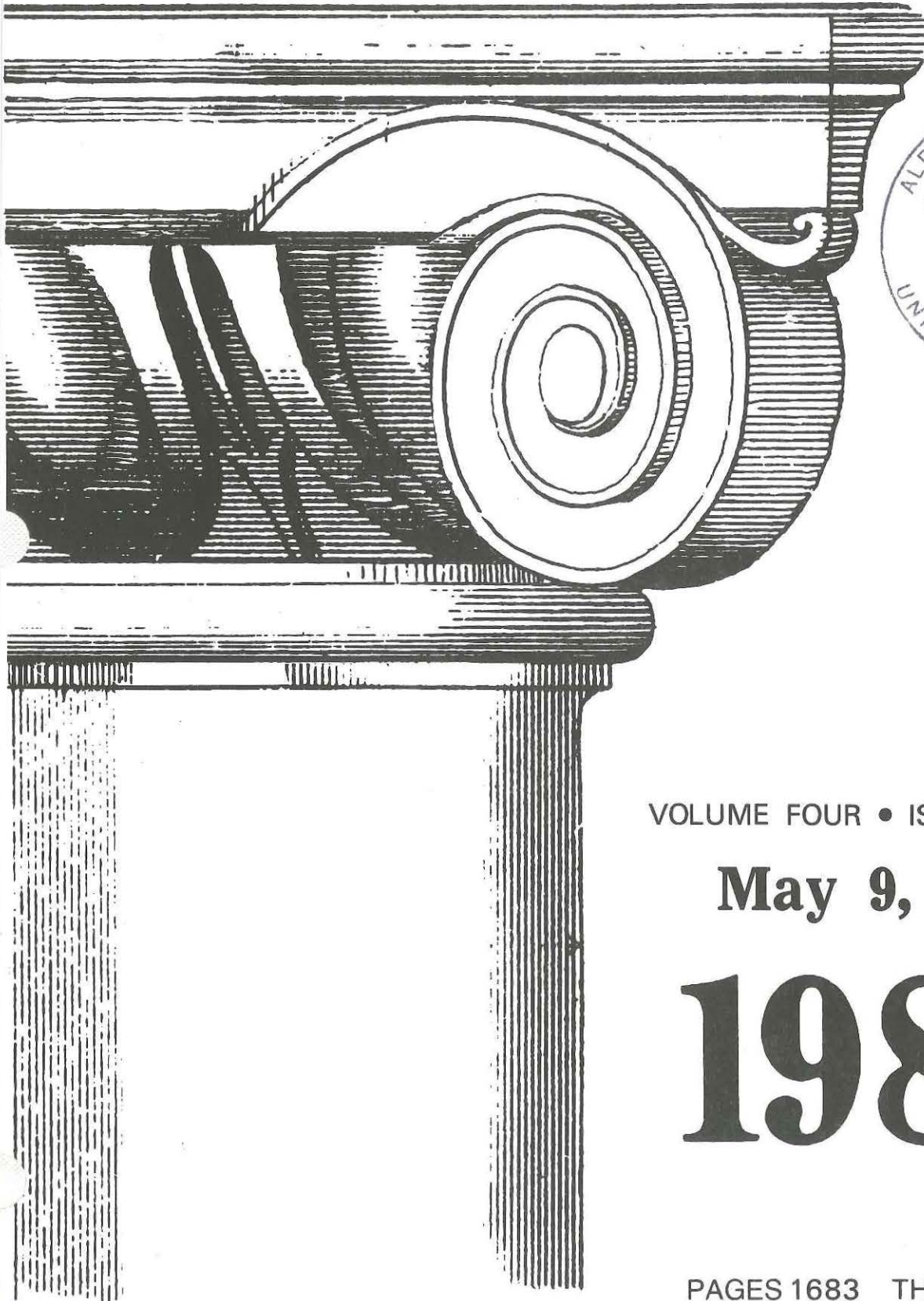


# THE VIRGINIA REGISTER

OF REGULATIONS

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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

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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.

## DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

**NOTE:** The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulations.

### Title of Regulations:

VR 325-01. Definitions and Miscellaneous.

VR 325-02. Game.

VR 325-03. Fish.

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

Public Hearing Date: May 20, 1988 - 9:30 a.m.  
(See Calendar of Events section for additional information)

### Public Hearing Notice:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed new and amended board regulations. A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any part thereof, will be held at the board's offices, 4010 West Broad Street, beginning at 9:30 a.m. on Friday, May 20, 1988, at which time any interested citizen present shall be heard. If the board is satisfied that the proposed regulations, or any part thereof, are advisable, in the form in which published or as amended as a result of the public hearing, the board may adopt such proposals at that time, acting upon the proposals separately or in block.

### Summary:

Summaries are not provided since, in most instances, the summary would be as long or longer than the full text.

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-01-1. IN GENERAL.

§ 3-1. Same—Dismal Swamp Line.

Whenever the words "Dismal Swamp Line," or language equivalent thereto, appear in a regulation of the board, such words shall apply to a line: Beginning at a point on State Highway 10 where it intersects the Isle of Wight

County line, thence along such highway to its intersection with the corporate limits of the City of Suffolk, thence through the corporate limits of the City of Suffolk to its intersection with State Secondary Highway 642, and thence along State Secondary Highway 642 (White Marsh Road) in a southerly and westerly direction to State Secondary Highway 604 (Desert Road), and thence southerly along State Secondary Highway 604 to the North Carolina line.

VR 325-02. GAME.

VR 325-02-2. BEAR.

§ 1-1. Same—Certain counties west of Blue Ridge Mountains.

It shall be lawful to hunt bear from the first Monday in November through the first Saturday in January, both dates inclusive, in the counties of Bland, Giles, Montgomery, Pulaski, Smyth, Tazewell, Washington and Wythe.

§ 1-2. Same—Cities of Chesapeake and Suffolk east of Dismal Swamp line.

It shall be lawful to hunt bear from October 1 through November 30, both dates inclusive, in the cities of Chesapeake and Suffolk to the east inclusive, in the cities of Chesapeake and Suffolk to the east of the Dismal Swamp Line.

§ 1-3. Same—City of Suffolk west of Dismal Swamp Line.

It shall be lawful to hunt bear from the third Monday in November to the first Saturday in January, both dates inclusive, in the City of Suffolk west of the Dismal Swamp Line.

§ 3. Continuous closed season in certain counties, cities and areas.

It shall be unlawful to hunt bear at any time in the counties of Accomack, Amelia, Appomattox, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Grayson, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Richmond, Scott,

# Proposed Regulations

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Southampton, Spotsylvania, Stafford, Surry, Sussex, Westmoreland, Wise and York; and in the Cities of Hampton, Newport News, Norfolk and Virginia Beach; and on the Hidden Valley Wildlife Management Area.

VR 325-02-6. DEER.

§ 2.1. Same—Cities of Virginia Beach, Chesapeake and Suffolk east of Dismal Swamp Line.

*It shall be lawful to hunt deer from October 1 through November 30, both dates inclusive, in the cities of Virginia Beach, Chesapeake, and Suffolk east of the Dismal Swamp Line.*

§ 2.2. Same—Isle of Wight County and City of Suffolk west of Dismal Swamp Line.

*It shall be lawful to hunt deer from the third Monday in November through the first Saturday in January, both dates inclusive, in Isle of Wight County and in the City of Suffolk west of the Dismal Swamp line.*

VR 325-02-8. FOX.

## PART II. HUNTING WITH GUNS.

§ 2.1-1. Same—Buchanan County.

*It shall be lawful to hunt foxes with guns in the County of Buchanan from October 15 to January 31, both dates inclusive.*

§ 2.1-2. Same—Counties of Scott, Washington and Wythe.

*It shall be lawful to hunt foxes with guns in the counties of Scott, Washington and Wythe from October 1 to the last day in February, both dates inclusive.*

## PART III. TRAPPING.

§ 3.1-1. Same—Albemarle County.

*It shall be lawful for any person to trap foxes in the County of Albemarle during the month of November.*

VR 325-02-21. SQUIRREL.

## PART I. GRAY AND RED SQUIRREL.

§ 1.3. Same—Certain counties—September 1 through September 15 and the first Monday in November through January 31.

*It shall be lawful to hunt squirrel from September 1 through September 15, both dates inclusive, and from the first Monday in November through January 31, both dates inclusive, in the counties of Brunswick (except Fort*

*Pickett), Dinwiddie (except Fort Pickett), and Greensville, Lunenburg and Southampton.*

§ 1.4. Same—September 15 through September 30 and the first Monday in November through January 31.

*It shall be lawful to hunt squirrel from September 15 through September 30, both dates inclusive, and from the first Monday in November through January 31, both dates inclusive, in the counties of Bland, Botetourt, Buchanan, Craig, Dickenson, Giles, Grayson, Lee, Mecklenburg, Montgomery, Pulaski, Roanoke, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe.*

§ 1.5. Same—September 15 through October 14 and the first Monday in November through January 31.

*It shall be lawful to hunt squirrel from September 15 through October 14, both dates inclusive, and from the first Monday in November through January 31, both dates inclusive, in the counties of Bedford, Campbell, Carroll, Floyd, Franklin, Halifax, and Henry, Patrick and Pittsylvania.*

## PART II. FOX SQUIRREL.

§ 2.2. Open season—Certain counties—September 15 through September 30 and from the first Monday in November through January 31.

*It shall be lawful to hunt fox squirrel from September 15 through September 30, both dates inclusive, and from the first Monday in November through January 31, both dates inclusive, in the counties of Bland, Botetourt, Buchanan, Craig, Dickenson, Giles, Grayson, Lee, Montgomery, Pulaski, Roanoke, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe.*

§ 2.3. Same—September 15 through September 30 and from the third Monday in November through January 1.

Rescind this section in its entirety.

§ 2.4. Same—September 15 through October 14 and from the ~~third~~ first Monday in November through January ~~1~~ 31.

*It shall be lawful to hunt fox squirrel from September 15 through October 14, both dates inclusive, and from the ~~third~~ first Monday in November through January ~~1~~ 31, both dates inclusive, in the counties of Carroll and Floyd.*

VR 325-03. FISH

VR 325-03-4. GIGS, GRAB HOOKS, TROT LINES,  
SNARES, ETC.

§ 3. Same—Certain counties west of the Blue Ridge Mountains.

Except as otherwise provided by local legislation, it shall be lawful to take nongame fish in the daytime by snagging, grabbing, snaring, gigging, and with a striking iron from April 1 through May 15, both dates inclusive, and October 1 through November 30, both dates inclusive, in the following waters: Buchanan County, all waters except Dismal River; *Grayson County, New River*; Lee County, Powells River; Russell County, Clinch River; Scott County, Clinch River and Holston River and their tributaries; Tazewell County, Dry Run Creek; Washington County, three forks of the Holston River; Wise County, Clinch River. The bag limit for taking suckers or red horse provided for in this section shall be 20 a day.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**Title of Regulation: VR 460-04-8.1. Home and Community Based Care Waiver Request for the Mentally Retarded and Geriatric Mentally Ill.**

**Publication: V.A.R. 1:11 663-733 March 4, 1985.**

This department wishes to **withdraw**, at this time, from further development the proposed regulations entitled "Home and Community Based Care Waiver Request for the Mentally Retarded and Geriatric Mentally Ill," VR 460-04-8.1. These proposed regulations were published in the March 4, 1985, Virginia Register.



# 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 HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:4.1 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 400-02-0001. **Procedures, Instructions and Guidelines for Multi-Family Housing Developments.**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

**Effective Date:** April 20, 1988

### Summary:

*Under the current procedures, instructions and guidelines, the authority may modify its regulatory controls to permit prepayment of the mortgage loan on a multi-family development 20 years after substantial completion. By authorizing the authority to require an owner to grant an option to purchase and right of first refusal for such a development, the amendments enable the authority to preserve the development as low and moderate income if an owner desires to pay off the authority's mortgage loan by sale or refinancing of the development or otherwise.*

VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.

### § 1. Purpose and applicability.

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 Virginia Housing Development Authority (the "authority") to mortgagors to provide the construction and/or permanent financing of multi-family housing developments intended for occupancy by persons and families of low and moderate income ("development" or "developments"). These procedures, instructions and guidelines shall be applicable to the making of such mortgage loans directly by the authority to mortgagors, the purchase of such mortgage loans, the participation by the authority in such mortgage loans with mortgage lenders and any other manner of financing of such mortgage loans under the Virginia Housing Development Authority Act (the "Act"). These procedures, instructions and guidelines shall not, however, apply to any developments which are subject to any other procedures, instructions and guidelines adopted by the authority. If any mortgage loan is to provide either

the construction or permanent financing (but not both) of a development, these procedures, instructions and guidelines shall be applicable to the extent determined by the executive director to be appropriate for such financing. If any development is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government, the applicable federal rules and regulations shall be controlling over any inconsistent provision. Furthermore, if the mortgage loan on any development is to be insured by the federal government, the provisions of these procedures, instructions and guidelines shall be applicable to such development only to the extent determined by the executive director to be necessary in order to (i) protect any interest of the authority which, in the judgment of the executive director, is not adequately protected by such insurance or by the implementation or enforcement of the applicable federal rules, regulations or requirements or (ii) to comply with the Act or fulfill the authority's public purpose and obligations thereunder. Developments shall include housing intended to be owned and operated on a cooperative basis. The term "construction", as used herein, shall include the rehabilitation, preservation or improvement of existing structures.

These procedures, instructions and guidelines shall supersede the processing procedures, instructions and guidelines adopted by the authority on January 17, 1984.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any development to waive or modify any provision herein where deemed appropriated by him for good cause, to the extent not inconsistent with the Act, the authority's rules and regulations, and covenants and agreements with the holders of its bonds.

"Executive director" as used herein refers to 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 of Commissioners of the authority (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, the mortgagor, the contractor or other members of the development team under the initial closing documents as described in § 7 of these procedures, instructions and guidelines.

These procedures, instructions and guidelines are intended to provide a general description of the authority's processing requirements and not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's multi-family housing programs. 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 with respect to any particular development or developments or any multi-family housing program or programs.

## § 2. Income limits and general restrictions.

Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit. The authority's rules and regulations authorize its board to establish from time to time by resolution lower income limits for initial occupancy.

In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in §§ 11 and 14 of these procedures, instructions and guidelines), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose incomes (at the time of their initial occupancy) do not exceed 80% of the area median income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose incomes (at the time of their initial occupancy) do not exceed 150% of such area median income as so determined.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof under the authority's rules and regulations and these procedures, instructions and guidelines, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms

hereof must comply with (i) the Act and the authority's rules and regulations; (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such developments; (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto; and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

## § 3. Terms of mortgage loans.

The authority may make or finance mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance development intended for occupancy by persons and families of low and moderate income. The term of the mortgage loan shall be equal to (i) if the mortgage loan is to finance the construction of the proposed development, the period determined by the executive director to be necessary to: (1) complete construction of the development, (2) achieve sufficient occupancy to support the development and (3) consummate the final closing of the mortgage loan; plus (ii) if the mortgage loan is to finance the ownership and operation of the proposed development, an amortization period set forth in the mortgage loan commitment but not to exceed 45 years. The executive director may require that such amortization period not extend beyond the termination date of any federal insurance, assistance or subsidy.

Mortgage loans may be made to: (i) for-profit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 95%; and (ii) nonprofit housing sponsors in original principal amounts not to exceed the lesser of the minimum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 100%.

The maximum principal amount and percentage of housing development costs specified or established in the mortgage loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the mortgage loan and fulfillment of its public purpose. Such factors may include the fair market value of the proposed development as completed, the economic feasibility and marketability of the proposed development at the rents necessary to pay the debt service on the mortgage loan and the operating expenses of the proposed development, and the income levels of the persons and families who would be able to afford to pay such rents.

# Final Regulations

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In accordance with the authority's rules and regulations, the executive director is authorized to prepare and from time to time revise a cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide") which shall, unless otherwise agreed to by the authority, govern the extent to which costs may be eligible for inclusion in the housing development costs as determined by the authority at final closing. Copies of such guide are available upon request.

The interest rate on the mortgage loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and terms of the deed of trust note. The authority shall charge a financing fee equal to 2.5% of the mortgage loan amount, unless the executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

## § 4. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of developments. 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 proposals and the selection of developments 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 available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

## § 5. Application and acceptance for processing.

Application for a mortgage loan shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority, including, but not limited to: initial site, elevation and unit plans; information with respect to the status of the proposed development site and the surrounding community; any option or sales contract to acquire the site; an evaluation of the need and effective demand for the proposed development in the market area of such site; information regarding the legal, business and financial status and experience of the members of the applicant's proposed development team and of the principals in any

entity which is a member thereof, including current financial statements (which shall be audited in the case of a business entity) for the mortgagor (if existing), the general contractor and the principals therein; information regarding amenities and services proposed to be offered to the tenants; a preliminary estimate of the housing development costs and the individual components thereof; the proposed schedule of rents; a preliminary estimate of the annual operating budget and the individual components thereof; the estimated utility expenses to be paid by the tenants of dwelling units in the proposed development; and the amount of any federal insurance, subsidy or assistance which the applicant is requesting for the proposed development.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;
2. An evaluation of the ability, experience and financial capacity of the applicant and general contractor and the qualifications of the architect, management agent and other members of the proposed development team;
3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;
4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary evaluation of the adequacy of the proposed rents to sustain the proposed development based upon the assumed occupancy rate and estimated construction and financing costs; and
5. A preliminary evaluation of the marketability of the proposed development.

Based on the authority's review of the applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines best satisfy the following criteria:

1. The vicinity of the proposed development is and will continue to be a residential area suitable for the proposed development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in

the value of the proposed development or which could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date (i) direct access to adequate public roads and utilities and (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) in the area of the proposed development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions, vegetation, and drainage conditions) are suitable for the construction and operation of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction and operation.

4. The location of the proposed development will promote and enhance the marketability of the units to the person and families intended for occupancy thereof.

5. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

6. The design of the proposed development is attractive and esthetically appealing, will contribute to the marketability of the proposed development, makes use of materials to reduce energy and maintenance costs, provides for a proper mix of units for the residents intended to be benefitted by the authority's program, provides for units with adequate, well-designed space, includes equipment and facilities customarily used or enjoyed in the area by the contemplated residents, and will otherwise provide a safe, habitable and pleasant living environment for such residents.

7. Subject to further review and evaluation by the authority's staff under § 6 of these procedures, instructions, and guidelines, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. Subject to further review and evaluation by the authority's staff under § 6 of these procedures, instructions, and guidelines, the proposed rents appear to be at levels which will: (i) be affordable by the persons and families intended to be assisted by the authority; (ii) permit the successful marketing of the

units to such persons and families; and (iii) sustain the operation of the proposed development.

9. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development.

10. The architect, management agent and other members of the proposed development team have the qualifications necessary to perform their respective functions and responsibilities.

11. The application and proposed development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these procedures, instructions and guidelines.

12. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

13. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 of these procedures, instructions and guidelines and that the proposed development will otherwise continue to be processed through initial closing and will be completed and operated, all in compliance with the Act and the authority's rules and regulations, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these procedures, instructions and guidelines and without unreasonable delay, interruptions or expense.

If only one application is being reviewed for acceptance for processing, the executive director shall accept such application for processing if he determines that such application adequately satisfies the foregoing criteria.

In the selection of an application or applications for processing, the executive director may take into account the desirability of allocating funds to different sponsors throughout the Commonwealth of Virginia.

Applications shall be selected only to the extent that the authority has or expects to have funds available from the sale of its notes or bonds to finance mortgage loans for the proposed developments.

Nothing contained herein shall require the authority to select any application which, in the judgment of the executive director, does not adequately satisfy the foregoing criteria.

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The executive director's determinations with respect to the above criteria shall be based only on the documents and information received or obtained by him at that time and are subject to modification or reversal upon his receipt of additional documents or information at a later time. In addition, the application shall be subject to further review in accordance with § 6 of these procedures, instructions and guidelines.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto and may require the payment by the sponsor of a nonrefundable processing fee of 0.25% of the estimated mortgage loan amount. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

If the executive director determines that a proposed development to be accepted for processing does not adequately satisfy one or more of the foregoing criteria, he may nevertheless accept such proposed development for processing subject to satisfaction of the applicable criteria in such manner and within such time period as he shall specify in his notification of acceptance. If the executive director determines not to accept any proposed development for processing, he shall so notify the sponsor.

## § 6. Feasibility and commitment.

In order to continue the processing of the application, the applicant shall file, within such time limit as the executive director shall specify, such forms, documents and information as the executive director shall require with respect to the feasibility of the proposed development, including without limitation the following:

1. Any additions, modifications or other changes to the application and documents previously submitted as may be necessary or appropriate to make the information therein complete, accurate and current;
2. Architectural and engineering plans, drawings and specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development;
3. The applicant's (i) best estimates of the housing development costs and the components thereof; (ii) proposed mortgage loan amount; (iii) proposed rents; (iv) proposed annual operating budget and the individual components thereof; (v) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident; and (vi) amount of any federal insurance, subsidy or assistance that the applicant is requesting for the proposed development. The applicant's estimates shall be in such detail and with such itemization and supporting

information as shall be requested by the executive director;

4. The applicant's management, marketing and tenant selection plans, including description and analysis of marketing and tenant selection strategies, techniques and procedures to be followed in marketing the units and selecting tenants; and

5. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the land and any improvements to be retained and used as a part of the development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and initial closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

The authority staff shall review and evaluate the documents and information received or obtained pursuant to this § 6. Such review and evaluation shall include, but not be limited to, the following:

1. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed development;
2. A market analysis as to the present and projected demand for the proposed development in the market area, including: (i) an evaluation of existing and future market conditions; (ii) an analysis of trends and projections of housing production, employment and population for the market area; (iii) a site evaluation

(such as access and topography of the site, neighborhood environment of the site, public and private facilities serving the site and present and proposed uses of nearby land); and (iv) an analysis of competitive projects;

3. A review of the management, marketing and tenant selection plans, including their effect on the economic feasibility of the proposed development and their efficacy in carrying out the programs and policies of the authority;

4. A final review of the (i) ability, experience and financial capacity of the applicant and general contractor; and (ii) the qualifications of the architect, management agent and other members of the proposed development team.

5. An analysis of the architectural and engineering plans, drawings and specifications, including the functional use and living environment for the proposed residents, the marketability of the units; the amenities and facilities to be provided to the proposed residents; and the management, maintenance and energy conservation characteristics of the proposed development.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed development, the executive director shall prepare a recommendation to the board that a mortgage loan commitment be issued to the applicant with respect to the proposed development only if he determines that all of the following criteria have been satisfied:

1. Based on the data and information received or obtained pursuant to this § 6, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 of these procedures, instructions and guidelines.

2. The applicant's estimates of housing development costs: (i) include all costs necessary for the development and construction of the proposed development; (ii) are reasonable in amount; (iii) are based upon valid data and information; and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

3. Subject to review by the authority at final closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the authority's

cost certification guide or under such other requirements as shall be agreed to by the authority.

4. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental or related to the proposed development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

5. All operating expenses (including replacement and other reserves) necessary or appropriate for the operation of the proposed development are included in the proposed operating budget, and the estimated amounts of such operating expenses are reasonable, are based on valid data and information and are comparable to operating expenses experienced by similar developments.

6. Based upon the proposed rents and projected occupancy level required or approved by the executive director, the estimated income from the proposed development is reasonable. The estimated income may include: (i) rental income from commercial space within the proposed development if the executive director determines that a strong, long-term market exists for such space; and (ii) income from other sources relating to the operation of the proposed development if determined by the executive director to be reasonable in amount and comparable to such income received on similar developments.

7. The estimated income from the proposed development, including any federal subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the mortgage loan, the operating expenses, and replacement and other reserves required by the authority.

8. The units will be occupied by persons and families intended to be served by the proposed development and qualified under the Act and the authority's rules and regulations, and any applicable federal laws, rules and regulations. Such occupancy of the units will be achieved in such time and manner that the proposed development will (i) attain self-sufficiency (i.e., the rental and other income from the development is sufficient to pay all operating expenses, debt service and replacement and other required reserves and escrows) within the usual and customary time for a development for its size, nature, location and type, and without any delay in the commencement of amortization; and (ii) will continue to be self-sufficient for the full term of the mortgage loan.

9. The estimated utility expenses and other costs to be paid by the residents are reasonable, are based upon valid data and information and are comparable to such expenses experienced by similar developments, and the estimated amounts of such utility expenses

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and costs will not have a materially adverse effect on the occupancy of the units in accordance with item 8 above.

10. The architectural drawings, plans and specifications shall demonstrate that: (i) the proposed development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents; (ii) the dwelling units of the proposed housing development and the individual rooms therein shall be furnishable with the usual and customary furniture, appliances and other furnishings consistent with their intended use and occupancy; and (iii) the proposed housing development shall make use of measures promoting environmental protection, energy conservation and maintenance and operating efficiency to the extent economically feasible and consistent with the other requirements of this § 6.

11. The proposed development includes such appliances, equipment, facilities and amenities as are customarily used or enjoyed by the contemplated residents in similar developments.

12. The management plan includes such management procedures and requirements as are necessary for the proper and successful operations, maintenance and management of the proposed development in accordance with these procedures, instructions and guidelines.

13. The marketing and tenant selection plans submitted by the applicant shall comply with the authority's rules and regulations and shall provide for actions to be taken such that: (i) the dwelling units in the proposed development will be occupied in accordance with item 8 above and any applicable federal laws, rules and regulations by those eligible persons and families who are expected to be served by the proposed development; (ii) the residents will be selected without regard to race, color, religion, creed, sex or national origin; and (iii) units intended for occupancy by handicapped and disabled persons will be adequately and properly marketed to such persons and such persons will be given priority in the selection of residents for such units. The tenant selection plan shall describe the requirements and procedures (including any occupancy criteria and priorities established pursuant to § 11 of these procedures, instructions and guidelines) to be applied by the mortgagor in order to select those residents who are intended to be served by the proposed development and who are best able to fulfill their obligation and responsibilities as residents of the proposed development.

14. In the case of any development to be insured or otherwise assisted or aided by the federal government, the proposed development will comply in all respects with any applicable federal laws, rules and

regulations, and adequate federal insurance, subsidy, or assistance is available for the development and will be expected to remain available in the due course of processing with the applicable federal agency, authority or instrumentality.

15. The proposed development will comply with: (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued or to be issued by the authority to finance the proposed development; and (ii) all requirements set forth in the resolutions pursuant to which such notes or bonds are issued or to be issued.

16. The prerequisites necessary for the members of the applicant's development team to acquire, own, construct or rehabilitate, operate and manage the proposed development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining: (i) site plan approval; (ii) proper zoning status; (iii) assurances of the availability of the requisite public utilities; (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed development; (v) licenses and other legal authorizations necessary to permit each member to perform his or its duties and responsibilities in the Commonwealth of Virginia; (vi) building permits; and (vii) fee simple ownership of the site, a sales contract or option giving the applicant or mortgagor the right to purchase the site for the proposed development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the construction or operation of the proposed development).

17. The proposed development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

18. The proposed development will provide valid and sound security for the authority's mortgage loan and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

19. Subject to a final determination by the board, the financing of the proposed development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of the commitment, he shall present his analysis and recommendations to the board. If the executive director determines that one or

more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion recommend to the board that the application be approved and that a mortgage loan commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. Prior to the presentation of his recommendations to the board, the executive director may require the payment by the applicant of a nonrefundable processing fee in an amount equal to 0.5% of the then estimated mortgage loan amount less any processing fees previously paid by the applicant. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the issuance of a commitment, subject to such terms and conditions as the board shall require in such resolution. Such resolution and the commitment issued pursuant thereto shall in all respects conform to the requirements of the authority's rules and regulations.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

## § 7. Initial closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "initial closing documents") required by the commitment within the time period specified. When the initial closing documents have been submitted and approved by the authority staff and all other requirements in the commitment have been satisfied, the initial closing of the mortgage loan shall be held. At this closing, the initial closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any initial equity investment required by the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of mortgage loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents.

The actual interest rate on the mortgage loan shall be established by the executive director at the time of the execution of the deed of trust note at initial closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of such note.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction, completion, occupancy and

operation of the development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit, latent construction defect escrows, replacement reserves, and tax and insurance escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

## § 8. Construction.

The construction of the development shall be performed in accordance with the initial closing documents. The authority shall have the right to inspect the development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the initial closing documents and to ascertain the propriety and validity of mortgage loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of mortgage loan proceeds may only be made upon a determination by the authority that the terms and conditions of the initial closing documents with respect to any such disbursement have been satisfied; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

## § 9. Completion of construction and final closing.

The initial closing documents shall specify those requirements and conditions that must be satisfied in order for the development to be deemed to have attained final completion. Upon such final completion of the development, the mortgagor, general contractor, and any other parties required to do so by the initial closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the authority's cost certification guide or in accordance with such other requirements as shall have been agreed to by the authority.

Prior to or concurrently with final closing, the mortgagor, general contractor and other members of the development team shall perform all acts and submit all contracts and documents required by the initial closing documents in order to attain final completion, make the final disbursement of mortgage loan proceeds, obtain any federal insurance, subsidy or assistance and otherwise consummate the final closing.

At the final closing, the authority shall determine the following in accordance with the initial closing documents:



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1. The total development costs, the fair market value of the development (if such value is to be used to determine the mortgagor's equity investment), the final mortgage loan amount, the balance of mortgage loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and, if applicable, the maximum amount of annual limited dividend distributions;

2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the amount of such monthly amortization payments, and the amounts to be paid monthly into the escrow accounts for taxes, insurance, replacement reserves, or other similar escrow items; and

3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

Unless otherwise agreed to by the authority, the mortgagor and contractor shall, within such period of time as is specified in the authority's cost certification guide, submit supplemental cost certifications, and the authority shall have the right to make such adjustments to the foregoing determinations as it shall deem appropriate as a result of its review of such supplemental cost certification.

If the mortgage loan commitment and initial closing documents so provide and subject to such terms and conditions as shall be set forth therein, the equity shall be adjusted subsequent to final closing to an amount equal to the difference, as of the date of adjustment, between the fair market value of the development and the outstanding principal balance of the mortgage loan.

## § 10. Mortgage loan increases.

Prior to initial closing, the principal amount of the mortgage loan may be increased, if such an increase is justified by an increase in the estimated costs of the proposed development, is necessary or desirable to effect the successful construction and operation of the proposed development, can be funded from available proceeds of the authority's notes or bonds, and is not inconsistent with the provisions of the Act or the authority's rules and regulations or any of the provisions of these procedures, instructions and guidelines. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to initial closing, the authority will consider and, where appropriate, approve a mortgage loan increase to be financed from the proceeds of the authority's notes or bonds in the following instances:

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by

the authority or (ii) betterments to the development approved by the authority which will improve the quality or value of the development or will reduce the costs of operating or maintaining the development;

2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the development to properly perform an act for which the authority is solely responsible;

3. Where a mortgage loan increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or

4. Where the authority has entered into an agreement with the mortgagor prior to initial closing to provide a mortgage loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

In the event that a person or entity acceptable to the authority is prepared to provide financing on a participation basis on such terms and conditions as the authority may require, the authority will consider and, where appropriate, approve an increase in its mortgage loan subsequent to initial closing to the extent of the financing by such person or entity in any of the following instances:

1. One or more of the instances set forth in 1 through 4 above; or

2. Where costs are incurred which are:

a. In excess of the original total contract sum set forth in the authority's mortgage loan commitment;

b. The direct result of necessary and substantial changes approved by the authority in the original plans and specifications;

c. Evidenced by change orders in accordance with the original contract documents or by other documentation acceptable to the authority; and

d. Approved by the authority for inclusion within the total development cost in accordance with the Act, the authority's rules and regulations and the authority's cost certification guide.

Any such mortgage loan increase to be financed on a participation basis shall be granted only to the extent that such costs cannot be funded from mortgage loan proceeds, any income from the operation of the development approved by the authority for application thereto, and other moneys of the mortgagor available therefor. As used herein, the term "other moneys of the mortgagor" shall include moneys received or to be received as a result of the sale or syndication of limited partnership interest in the mortgagor. In the event that any limited dividend

mortgagor shall have sold or syndicated less than 90% of the partnership interests, such term shall include the amount, as determined by the authority, which would have been received upon the sale or syndication of 90% of such interest under usual and customary circumstances.

Any such increase in the mortgage loan subsequent to initial closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. The ability of the authority to sell bonds to finance the mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to a mortgage loan to be financed from the proceeds of the authority's notes or bonds).
2. The obtaining by the owner of additional federal subsidy (if the development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such mortgage loan increase. The provision of such additional subsidy shall be made subject to and in accordance with all applicable federal regulations.
3. A determination by the authority that the mortgage loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the development.
4. A determination by the authority that the mortgage loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the authority's cost certification guide and as approved by the authority) as is established in the resolution authorizing the mortgage loan in accordance with § 3 of these procedures, instructions and guidelines.
5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the mortgage loan, to comply with covenants and agreements with the holders of its bonds issued to finance the mortgage loan, to comply with the Act and the authority's rules and regulations, and to carry out its public purpose.

The executive director may, without further action by the board, increase the principal amount of the mortgage loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the mortgage loan set forth in the commitment, provided that such increase is consistent with the Act and the authority's rules and regulations and the provisions of these procedures, instructions and guidelines. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 10 shall impose any duty or obligation on the authority to increase any mortgage loan, as the decision as to whether to grant a mortgage loan

increase shall be within the sole and absolute discretion of the authority.

## § 11. Operation, management and marketing.

The development shall be subject to a regulatory agreement entered into at initial closing between the authority and the mortgagor. Such regulatory agreement shall govern the rents, operating budget, occupancy, marketing, management, maintenance, operation, use and disposition of the development and the activities and operation of the mortgagor, as well as the amount of assets or income of the development which may be distributed to the mortgagor.

*Only Except as otherwise agreed by the authority pursuant to § 14 hereof, only rents established or approved on behalf of the authority pursuant to the regulatory agreement may be charged for dwelling units in the development. Notwithstanding the foregoing, in the case of any developments financed subsequent to January 1, 1986, the authority may agree with the mortgagor that the rents may be established and changed by the mortgagor without the prior approval of the authority, subject to such restrictions in the regulatory agreement as the authority shall deem necessary to assure that the rents shall be affordable to persons and families intended to be served by the development and subject to compliance by the mortgagor with the provisions in § 2 of these procedures, instructions and guidelines.*

Any costs for supportive services not generally included in the rent for similar developments shall not be funded from the rental income of the development.

If the mortgagor is a partnership, the general partner or partners shall be required to retain at least a 10% interest in the net proceeds from any sale, refinancing or other disposition of the development during the life of the mortgage loan.

The mortgagor shall lease the units in the development only to persons and families who are eligible for occupancy thereof as described in § 2 of these procedures, instructions and guidelines. The mortgagor shall comply with the provisions of the authority's rules and regulations regarding: (i) the examination and determination of the income and eligibility of applicants for initial occupancy of the development; and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the development.

In addition to the eligibility requirements of the authority, the executive director may establish occupancy criteria and priorities based on the following:

1. The age, family size, financial status, health conditions (including, without limitation, any handicaps or disabilities) and other circumstances of the applicants for the dwelling units;

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2. The status and physical condition of the housing then occupied by such applicants; and

3. Any other factors or matters which the executive director deems relevant to the effectuation of the public purposes of the authority.

In selecting eligible residents, the mortgagor shall comply with such occupancy criteria and priorities and with the tenant selection plan approved by the authority pursuant to § 6 of these procedures, instructions and guidelines.

The executive director is authorized to prepare and from time to time revise a housing management handbook which shall set forth the authority's procedures and requirements with respect to the management of developments. Copies of the housing management handbook shall be available upon request.

The management of the development shall also be subject to a management agreement entered into at initial closing between the mortgagor and its management agent, or where the mortgagor and the management agent are the same entity, between the authority and the mortgagor. Such management agreement shall govern the policies, practices and procedures relating to the management, marketing and operation of the development. The mortgagor and its management agent (if any) shall manage the development in accordance with the Act, the authority's rules and regulations, the regulatory agreement, the management agreement, the authority's housing management handbook, and the management plan approved by the authority.

The authority shall have the power to supervise the mortgagor and the development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the initial closing documents or other agreements relating to the mortgage loans. The authority shall have the right to inspect the development, conduct audits of all books and records of the development and to require such reports as the authority deems reasonable to assure compliance with this § 11.

## § 12. Transfers of ownership.

A. It is the authority's policy to evaluate requests for transfers of ownership on a case-by-case basis. The primary goal of the authority is the continued existence of low and moderate income rental housing stock maintained in a financially sound manner and in safe and sanitary condition. Any changes which would, in the opinion of the authority, detrimentally affect this goal will not be approved.

The provisions set forth in this § 12 shall apply only to transfers of ownership to be made subject to the authority's deed of trust and regulatory agreement. Such provisions shall not be applicable to transfers of ownership of developments subject to HUD mortgage insurance, it

being the policy of the authority to consent to any such transfer approved by HUD and permitted by the Act and applicable note or bond resolutions.

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any direct or indirect transfer of a partnership or other ownership interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale, conveyance or other direct or indirect transfer of the development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include: (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the mortgage loan or; (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12 month period constitute in the aggregate 50% or less of the partnership interests in the owner. The term "proposed ownership entity," as used herein, shall mean: (i) in the case of a transfer of a partnership interest, the owner of the development as proposed to be restructured by such transfer; and (ii) in the case of a transfer of the development, the entity which proposes to acquire the development.

B. The proposed ownership entity requesting approval of a transfer of ownership must initially submit a written request to the authority. This request should contain (i) a detailed description of the terms of the transfer; (ii) all documentation to be executed in connection with the transfer; (iii) information regarding the legal, business and financial status and experience of the proposed ownership entity and of the principals therein, including current financial statements (which shall be audited in the case of a business entity); (iv) an analysis of the current physical and financial condition of the development, including a current audited financial report for the development; (v) information regarding the experience and ability of any proposed management agent; and (vi) any other information and documents requested by the authority relating to the transfer. The request will be reviewed and evaluated in accordance with the following criteria:

1. The proposed ownership entity and the principals therein must have the experience, ability and financial capacity necessary to own, operate and manage the development in a manner satisfactory to the authority.

2. The development's physical and financial condition must be acceptable to the authority as of the date of transfer or such later date as the authority may approve. In order to assure compliance with this criteria, the authority may require any of the following:

a. The performance of any necessary repairs and the correction of any deferred or anticipated maintenance work;

b. The addition of any improvements to the

development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the development, will reduce the costs of operating or maintaining the development, will benefit the residents or otherwise improve the liveability of the development, or will improve the financial strength and stability of the development;

c. The establishment of escrows to assure the completion of any required repairs, maintenance work, or improvements;

d. The establishment of such new reserves and/or such additional funding of existing reserves as may be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the development; and

e. The funding of debt service payments, accounts payable and reserve requirements such that the foregoing are current at the time of any transfer of ownership.

3. The management agent, if any, to be selected by the proposed ownership entity to manage the development on its behalf must have the experience and ability necessary to manage the development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

If the development is subsidized or otherwise assisted by HUD, the approval by HUD may be required. Any and all documentation required by HUD must be submitted by the proposed ownership entity in conjunction with its request.

C. The authority will charge the proposed ownership entity a fee of \$5,000 or such higher fee as the executive director may for good cause require. This fee is to be paid at the closing.

D. The amount and terms of any secondary financing (i.e., any portion of the purchase price is to be paid after closing of the transfer of ownership) shall be subject to the review and approval of the authority. Secondary financing which would require a lien on the development is prohibited by the authority's bond resolution and, therefore, will not be permitted or approved. The authority will not provide a mortgage loan increase or other financing in connection with the transfer of ownership. The authority will also not approve a rent increase in order to provide funds for the repayment of any secondary financing. Cash flow (other than dividend distributions) shall not be used to repay the secondary financing. Any proposed secondary financing must not, in the determination of the authority, have any material adverse effect on the operation and management of the development, the security of the mortgage loan, the interests of the authority as lender, or the fulfillment of

the authority's public purpose under the Act. The authority may impose such conditions and restrictions (including, without limitation, requirements as to sources of payment for the secondary financing and limitations on the remedies which may be exercised upon a nonpayment of the secondary financing) with respect to the secondary financing as it may deem necessary or appropriate to prevent the occurrence of any such adverse effect.

E. In the case of a transfer from a nonprofit owner to a proposed for-profit owner, the authority may require the proposed for-profit owner to deposit and/or expend funds in such amount and manner and for such purposes and to take such other actions as the authority may require in order to assure that the principal amount of the mortgage loan does not exceed the limitations specified in the Act and the authority's rules and regulations or otherwise imposed by the authority. No transfer of ownership from a nonprofit owner to a for-profit owner shall be approved if such transfer would, in the judgment of the authority, affect the tax-exemption of the notes or bonds issued by the authority to finance the development. The authority will not approve any such transfer of ownership if any loss of property tax abatement as a result of such transfer will, in the determination of the authority, adversely affect the financial strength or security of the development.

At the closing of the transfer of the ownership, the total development cost and the equity of a proposed for-profit owner shall be determined by the authority. The resolution of the board approving the transfer of ownership shall include a determination of the maximum annual rate, if any, at which distributions may be made by the proposed for-profit owner pursuant to the authority's rules and regulations. The proposed for-profit owner shall execute and deliver such agreements and documents as the authority may require in order to incorporate the then existing policies, requirements and procedures relating to developments owned by for-profit owners. The role of the nonprofit owner in the ownership, operation and management of the development subsequent to the transfer of ownership shall be subject to the review and approval of the authority. The authority may require that any cash proceeds received by the nonprofit owner (after the payment of transaction costs and the funding of any fees, costs, expenses, reserves or escrows required or approved by the authority) be used for such charitable or other purposes as the authority may approve.

F. A request for transfer of ownership shall be reviewed by the executive director. If the executive director determines to recommend approval thereof, he shall present his analysis and recommendation to the board. The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the request and authorize the executive director to consent thereto, subject to such terms and conditions as the board shall require in such resolution.

Notwithstanding the foregoing, if any proposed transfer

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of a partnership interest is determined by the executive director to be insubstantial in effect and to have no material detrimental effect on the operation and management of the development or the authority's interest therein as lender, such transfer may be approved by him without approval of the board.

After approval of the request, an approval letter will be issued to the mortgagor consenting to the transfer. Such letter shall be contingent upon the delivery and execution of any and all closing documents required by the authority with respect to the transfer of ownership and the fulfillment of any special conditions required by the resolution of the board. The partnership agreement of the proposed ownership entity shall be subject to review by the authority and shall contain such terms and conditions as the authority may require.

The authority may require that the proposed ownership entity execute the then current forms of the authority's mortgage loan documents in substitution of the existing mortgage loan documents and/or to execute such amendments to the existing mortgage loan documents as the authority may require in order to cause the provisions of such documents to incorporate the then existing policies, procedures and requirements of the authority. At the closing of the transfer, all documents required by the approval letter shall be, where required, executed and recorded; all funds required by the approval letter will be paid or deposited in accordance therewith; and all other terms and conditions of the approval letter shall be satisfied. If deemed appropriate by the executive director, the original mortgagor shall be released from all liability and obligations which may thereafter arise under the documents previously executed with respect to the development.

In the case of a development which is in default or which is experiencing or is expected by the authority to experience financial, physical or other problems adversely affecting its financial strength and stability or its proper operation, maintenance or management, the authority may waive or modify any of the requirements herein as it may deem necessary or appropriate in order to assist the development and/or to protect the authority's interest as lender.

## § 13. Prepayments.

It shall be the policy of the authority that no prepayment of a mortgage loan shall be made without its prior written consent for such period of time set forth in the note evidencing the mortgage loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority. The authority may prohibit the prepayment of mortgage loans during such period of time as deemed necessary by the authority to assure compliance with applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the

notes or bonds issued to finance such mortgage loans. Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following: (i) the proposed use of the development subsequent to prepayment; (ii) any actual or potential termination or reduction of any federal subsidy or other assistance; (iii) the current and future need and demand for low and moderate housing in the market area of the development; (iv) the financial and physical condition of the development; (v) the financial effect of prepayment on the authority and the notes or bonds issued to finance the development; and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 13 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and policies. The provisions of this § 13 shall be subject to modification pursuant to § 14 hereof.

## § 14. Modification of regulatory controls.

If the executive director determines that (i) the mortgagor of any development is not receiving a sufficient financial return from the operation thereof as a result of a reduction in the amount of federal tax benefits available to the development (generally, at least 10 years, in the case of new construction, or five years, in the case of substantial rehabilitation, after the date of initial occupancy), (ii) the reserves of such development are and, after any action taken pursuant to this section, will continue to be adequate to assure its proper operation and maintenance and (iii) the rental and other income is and, after any action taken pursuant to this section, will continue to be sufficient to pay the debt service on the mortgage loan and the operating expenses of the development (including required payments to reserve accounts), then he may agree to one or more of the following modifications to the regulatory controls of the authority:

1. Rents may be thereafter established and changed

by the mortgagor without the prior approval of the authority, subject to (i) such restrictions as he shall deem necessary to assure that the rents shall be affordable to persons and families to be served by the development, (ii) compliance by the mortgagor with the provisions in § 2 of these procedures, instructions and guidelines, and (iii) such limitations on rent increases to existing residents as he shall deem necessary to prevent undue financial hardship to such residents;

2. Subject to prior approval by the board, any limitation on annual dividend distributions may be increased or eliminated, as determined by him to be necessary to provide an adequate financial return to the mortgagor without adversely affecting the financial strength or proper operation and maintenance of the development; and

3. The mortgagor may be given the right to prepay the mortgage loan on the date 20 years after the date of substantial completion of the development as determined by the executive director (or such later date as shall be necessary to assure compliance with federal laws and regulations governing the tax exemption of the notes or bonds issued to finance the mortgage loan), provided that the mortgagor shall be required to pay a prepayment fee in an amount described in § 13 of these procedures, instructions and guidelines, and provided further that such right to prepay shall be granted only if the prepayment pursuant thereto would not, in the determination of the executive director, result in a reduction in the amount or term of any federal subsidy or assistance for the development. *The executive director may require that the mortgagor grant to the authority (i) a right of first refusal upon a proposed sale of the development which would result in an exercise by the mortgagor of its right, as described above, to prepay the mortgage loan and (ii) an option to purchase the development upon an election by the mortgagor otherwise to exercise its right, as described above, to prepay the mortgage loan, which right of first refusal and option to purchase shall be effective for such period of time and shall be subject to such terms and conditions as the executive director shall require.*

The foregoing modifications shall be made only to the extent permissible under and consistent with applicable federal laws and regulations and any agreements governing federal subsidy, assistance or mortgage insurance.

\* \* \*

The effective date of the foregoing amendments to multi-family procedures, instructions and guidelines shall be April 20, 1988.

MARINE RESOURCES COMMISSION

**NOTE:** The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: VR 450-01-8804. Unloading Point for Relaying Shellfish.

Statutory Authority: § 28.1-179(8) of the Code of Virginia.

Effective Date: May 2, 1988

Preamble:

*The following order establishes a location where shellfish taken from a condemned shellfish growing area may be unloaded ashore.*

§ 1. Authority and effective date.

A. This order is promulgated pursuant to authority contained in § 28.1-179(8) of the Code of Virginia.

B. The effective date of this order is May 2, 1988.

§ 2. Designated area.

*Shellfish taken from condemned shellfish growing areas may be unloaded at L. D. Amory Company, 101 S. King Street, Hampton, Virginia.*

/s/ William A. Pruitt  
Commissioner  
Date: April 6, 1988

\* \* \* \* \*

Title of Regulation: VR 450-01-8805. Closure of Public Shellfish Grounds in Hampton Roads.

Statutory Authority: § 28.1-85 of the Code of Virginia.

Effective Date: May 2, 1988

Preamble:

*The following order establishes a closed season for designated public shellfish grounds in the Hampton Roads area during the Public Relay Season.*

§ 1. Authority, effective date.

A. This order is promulgated pursuant to authority contained in § 28.1-85 of the Code of Virginia.

B. The effective date of this order is May 2, 1988.

§ 2. Designated area.

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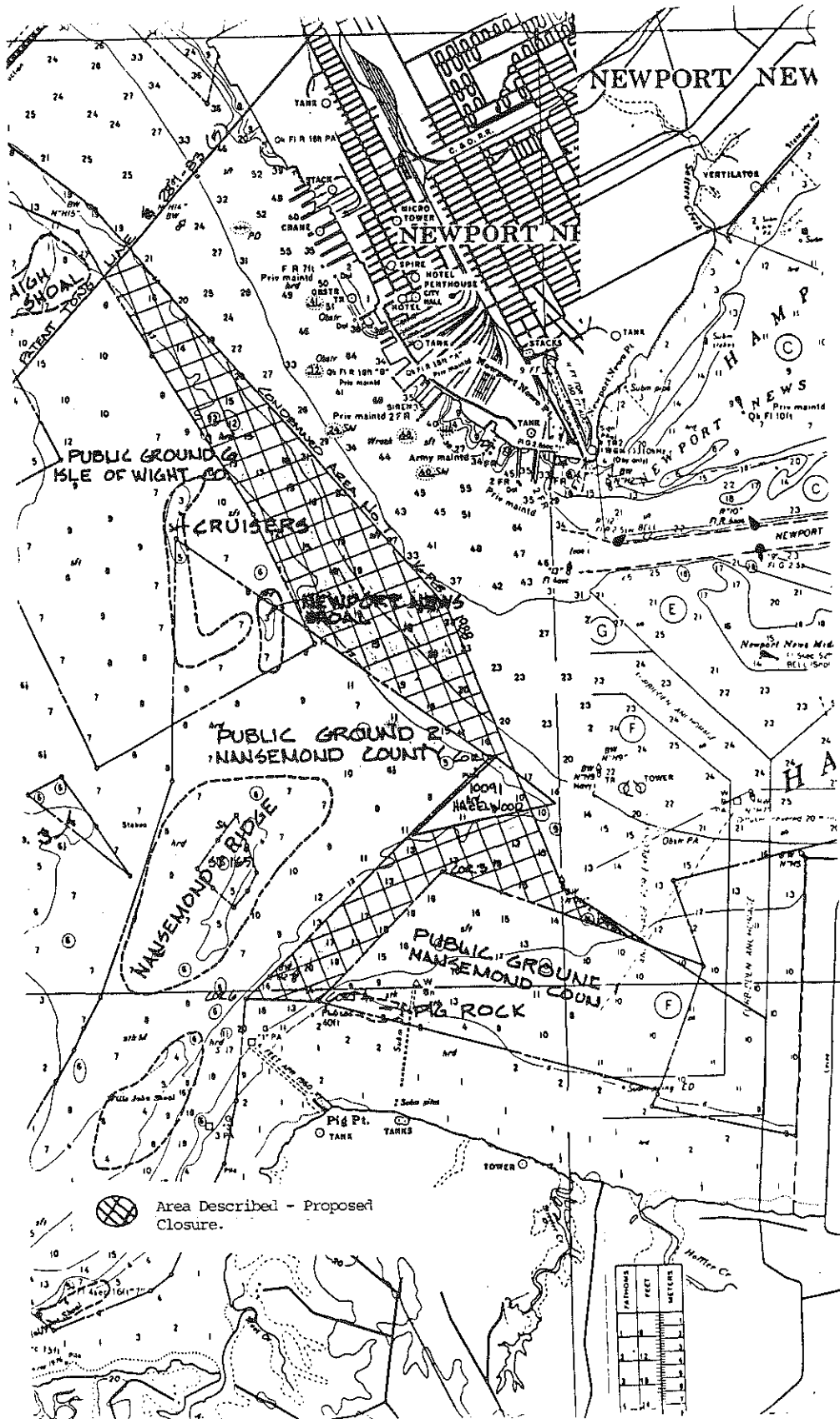
Beginning at point "1" on the Baylor Survey of Public Ground No. 2, Nansemond County; thence in a southwesterly direction to corner "6" of said Public Ground; thence in an easterly direction to corner "4" of Public Ground No. 1, Nansemond County; thence in a northeasterly direction to Public Ground corner "3"; thence in a southeasterly direction along the Baylor Survey line to a point being the intersection of said Baylor line with the Condemned line, said Condemned Shellfish Area No. 7, as described by the Virginia Department of Health, 16 February 1988; thence in generally a northerwesterly direction along the western boundary of said Condemned Area No. 7 to the point of intersection with the Condemned line with the Patent Tong line as described by § 28.1-83(5); thence in a southwesterly direction along said Patent Tong line to the point of intersection with the Baylor Survey line defining the eastern boundary of Public Ground No. 6, Isle of Wight County; thence in generally a southeasterly direction along the Baylor lines, being the eastern boundaries of Public Ground No. 6, Isle of Wight County and Public Ground No. 6, Isle of Wight County and Public Ground No. 2, Nansemond County, to corner "1" Public Ground No. 2, Nansemond County, being the point of beginning. Said area being exclusive of private lease Plat File No. 10091. (See attached copy of the portion of the chart showing such area.)

### § 3. Closed season.

A. The closed season for the above described designated area will be May 1 through August 15 of each year.

B. If the Public Relaying Season should be changed in any given year by the Commission beyond the normal May 1 and August 15, opening and closing dates, respectively, then the described area shall be closed during the corresponding Public Relay Season.

/s/ William A. Pruitt  
Commissioner  
Date: April 6, 1988





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## DEPARTMENT OF SOCIAL SERVICES

**Title of Regulation:** VR 615-48-02. Employment Program Services Policy.

**Statutory Authority:** § 63.1-25 of the Code of Virginia and Titles IV and IV-C of the Social Security Act.

**Effective Date:** July 1, 1988

### Summary:

*This regulation amends Employment Services Program policy. It eliminates the requirement that certain applicants for Aid to Dependent Children (ADC) and General Relief (GR) assistance contact three employees as a condition of eligibility for assistance. Instead, local agencies will offer job search assistance to applicants on a voluntary basis. The proposed policy gave local social services agencies the option of providing job search assistance to applicants who volunteered for such services. The final policy requires each local social service agency to provide job search assistance to exempt and nonexempt applicants for ADC and GR who volunteer to participate in a job search component during their application period.*

VR 615-48-02. Employment Program Services Policy.

### PART I. INTRODUCTION.

#### § 1.1. Definitions.

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

**"Aid to Dependent Children"** means a program established by Title IV-A of the Social Security Act and authorized in Virginia by Chapter 6 (§ 63.1-86 et seq.) of Title 63.1 of the Code of Virginia. This program provides benefits to needy children who are deprived of parental support or care.

**"ADC"** means Aid to Dependent Children Program.

**"Annual plan"** means Employment Services Plan. It is prepared annually by each local agency and submitted to the department for approval. It contains a brief description of, among other things, the components offered by the local agency.

**"Applicant"** means a person who has applied for ADC or GR and the disposition of the case has not yet been determined.

**"Caretaker-relative"** means a relative, other than the natural or adoptive parent, who is responsible for supervision and care of the needy child.

**"Component"** means one of several activities in which a person may participate while in the Employment Services Program.

**"Department"** means the Department of Social Services.

**"Employment Services Program"** means a program operated by the Department of Social Services which helps ADC and GR recipients in securing employment or the training or education needed to secure employment as required by Chapter 6.2 (§ 63.1-133.12:1) of Title 63.1 of the Code of Virginia.

**"ESP"** means the Employment Services Program.

**"Exempt"** means that an ADC or GR applicant or recipient meets one of the exemption criteria and therefore is not required to register with the Employment Services Program in order to be eligible for public assistance.

**"General relief"** means public assistance for individuals ineligible in a federal category but eligible for state assistance as established by § 63.1-106 of the Code of Virginia.

**"GR"** means general relief.

**"Local agency"** means any one of the local social services or welfare agencies which administer the Employment Services Program.

**"Nonexempt"** means that an ADC or GR applicant or recipient does not meet one of the exemption criteria and therefore is required to register with the Employment Services Program in order to be eligible for public assistance.

**"Participant"** means an ADC or GR recipient who is registered with the Employment Services Program and is participating in any one of its components.

**"Pending status"** means a component to which registrants are assigned when they cannot move immediately into one of the components identified in Part II, Policy, of these regulations.

**"Recipient"** means a person whose application for ADC or GR has been approved and the person has not been removed from assistance.

**"Registrant"** means an ADC or GR applicant or recipient who has registered with the Employment Services Program either because she he was required to do so or because she he volunteered.

**"Persons essential-to-well-being"** means needy individuals living in the home who can be determined essential to the well-being of the ADC or GR child(ren). Such individuals must be ineligible for assistance in a federal category in their own right.

## PART II. POLICY.

### § 2.1. Statewideness.

All local agencies shall offer to employable Aid to Dependent Children (ADC) and General Relief (GR) applicants and recipients an Employment Services Program which will assist those individuals in attaining the goal of self-support.

### § 2.2. Employment Services Annual Plan.

A. Each local agency shall submit annually for approval to the department a local Employment Services Plan. This annual plan shall include the following:

1. Individual community's needs and resources;
2. The agency's methodology for providing employment opportunities to its ADC and GR population;
3. A description of the registration process, the assessment process, the job search component, the work experience group component; and
4. The agency's efforts to coordinate with other providers of employment and training services.

B. All annual plans shall be submitted in the format prescribed by the department.

### § 2.3. Program focus.

The focus of each local Employment Services Program shall be the placement of ESP registrants into unsubsidized jobs to the extent that such jobs are available.

### § 2.4. Registration [ *and Participation* ].

A. All ADC and GR applicants and recipients must register [ *for and participate in with* ] the Employment Service Program offered by the local agency unless they meet one of the exemption criteria in the category of assistance for which they are eligible as defined in § 2.5 below.

[ *B. All nonexempt recipients must participate in the program.* ]

[ *B. C.* ] Recipients of ADC and GR shall be exempt from [ *registering with and* ] participating in any locally operated food stamp workfare or employment program.

### § 2.5. Exemption criteria.

An applicant/recipient of ADC (including persons essential-to-well-being) or GR must be registered with the Employment Services Program unless the individual is exempt from registration.

A. The exemption criteria for ADC are as follows:

1. Under age 16.
2. An eligible child or caretaker enrolled full time in elementary, secondary or vocational or technical school and age 16 but not yet 18. The vocational or technical school must be the equivalent of secondary school.
3. Ill, as determined by a medical statement provided by a physician or licensed or certified psychologist that the injury or illness temporarily prevents entry into employment or training.
4. Incapacitated, as determined by receipt of Social Security disability benefits or a medical statement provided by a physician or licensed or certified psychologist that the injury or illness by itself or in conjunction with age, prevents the individual from engaging in employment or training under the Employment Services Program.
5. 65 years of age or older.
6. A parent, caretaker-relative, or person essential-to-well-being whose presence in the home is required because of illness or incapacity of another member of the household (not necessarily a member of the assistance unit) and no other appropriate adult member of the household is available. This exemption is determined by a medical statement provided by a physician or licensed or certified psychologist that the injury or illness of another member of the household requires the individual's presence in the home on a substantially continuous basis.
7. A parent or caretaker-relative of a child under age six who personally provides care for the child with only very brief and infrequent absences from the child.
8. A parent or other caretaker of a child, when the other nonexempt adult relative in the home is registered and has not refused to participate in the program or to accept employment, without good cause.
9. A parent who is performing unpaid public or community services to fulfill a court imposed sentence and, therefore, is precluded from paid employment or participation in the Employment Services Program.
10. Employed to work 30 hours or more per week.
11. A female who is in her sixth through ninth month of pregnancy as determined by a written medical statement provided by a physician.
12. A VISTA Volunteer under Title I of Public Law 93-113, The Domestic Volunteer Services Act of 1973, provided he /she became a VISTA volunteer after

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applying for assistance.

## B. The exemption criteria for GR are as follows:

1. All persons (including the spouse) who are determined to be unemployable.
2. All individuals designated as persons essential-to-well-being (EWB) (including the spouse) who have been medically verified as essential to the care of any other member of the assistance unit.
3. All persons who are designated as caretaker for any children in the home (not necessarily members of the assistance unit) under six years of age.
4. All persons under the age of 16.
5. All persons 16 or 17, if enrolled in school full-time.
6. A VISTA Volunteer under Title I of Public Law 93-113, the Domestic Volunteer Service Act of 1973, provided he ~~she~~ became a Vista volunteer after applying for assistance.

## § 2.6. Applicant job search.

*Applicant job search shall not be a condition of eligibility for ADC and GR. [ ~~At~~ Each local agency must provide job search assistance to all ] exempt and nonexempt applicants for ADC and GR ~~must~~ [ ~~may voluntarily who volunteer to~~ ] participate in a job search component during their application period. ~~Three face to face contacts with potential employers must take place during this period and be verified in writing. [ The annual plan shall identify if the local agency intends to offer job search services to applicants. ]~~*

## § 2.7. Plan of participation.

Each exempt and nonexempt ADC and GR recipient shall participate in an employability assessment process which shall result in the development of a participation plan.

## § 2.8. Recipient job search component.

A. Each ESP registrant shall engage in up to eight weeks of job searching during every 12-month period [ ; ~~with the exception that registrants between the ages of 16 and 21 will not be required to engage in job search if they are participating in an education or training activity~~ ].

B. Up to four weeks of job search shall take place every six months and shall be verified during the eligibility redetermination process.

## § 2.9. Education and training component.

Each Employment Services Program shall include an education and training component for exempt and

nonexempt ADC and GR recipients who need such assistance to gain unsubsidized employment.

## § 2.10. Work experience component.

A. Each Employment Services Program shall include a work experience component for exempt and nonexempt ADC and GR recipients who need appropriate work experience of a developmental nature to assist them in moving into unsubsidized employment.

B. All participants in the work experience component shall be insured by Worker's Compensation.

C. Participants in the work experience component shall not displace persons currently employed or be placed in established, unfilled positions. Participants ~~must~~ shall not perform tasks which have been undertaken by employees or which would have the effect of reducing the work of employees.

## § 2.11. Employability reassessment.

A. Each ESP participant who does not find employment during the job search component shall participate in an employability reassessment within 30 days.

B. This assessment shall determine the recipient's future course of involvement in the agency's Employment Services Program including participation in work experience and other training/education components.

C. ESP participants who complete or leave any work experience, training, or education component shall be reassessed within 30 days of their leaving active participation.

D. Recipients in a pending status shall be reassessed every 90 days.

## § 2.12. Day care and transportation.

A. Applicants and recipients shall not be required to pay for day care, transportation, or other supportive services which may be necessary for them to participate in the Employment Services Program.

B. Each annual plan shall ensure that reasonable and affordable transportation and day care services are available for ADC and GR applicants and recipients and their children in order for them to participate in any ESP component.

C. Only approved or licensed day care facilities shall be utilized when day care is purchased or provided by the local agency.

D. When the applicant or recipient elects to have day care provided by relatives or others without cost to the local agency, approval of the day care provider is not required.

## § 2.13. Sanctions.

A. The refusal of a nonexempt ADC applicant or recipient to register with the Employment Services Program or of a nonexempt recipient to accept the employment services offered by the local agency shall result in that person's ineligibility for assistance.

B. The refusal of a nonexempt GR applicant or recipient to register with the Employment Services Program or of a nonexempt recipient to accept the employment services offered by the local agency shall result in the entire household's ineligibility for assistance.

## § 2.14. Appeals.

ESP registrants have the right to appeal. The appeal process currently in place in the department's Division of Benefit Programs shall be utilized to assure fair hearings for all applicants and recipients who feel adverse action has been taken as a result of their participation or lack of participation in the Employment Services Program.

## § 2.15. Fiscal and statistical reports.

Local agencies shall maintain and submit fiscal and statistical data required by the department.

## § 2.16. Program monitoring.

The local agency's program performance shall be monitored by the department for compliance with the approved annual plan.

### STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-03. Toxics Management Regulation.

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

Effective Date: July 1, 1988

#### Summary:

The Toxics Management Regulation will control the discharge of toxic pollutants to surface waters to ensure that no toxics are released in toxic amounts. Certain holders of National Pollutant Discharge Elimination System (NPDES) permits will be required to conduct chemical and biological monitoring to evaluate effluent toxicity. Those discharges which fail to pass established toxicity screening criteria will be required to conduct toxicity reduction evaluations and implement some action to bring the effluent into compliance with the screening criteria.

This final regulation has been modified in response to concerns raised during the public comment period.

Some of the major changes to the regulation are (i) the exclusion of certain categories of discharges from the regulation (§ 2.A), (ii) the deletion of requirements for high performance liquid chromatography (HPLC) analysis and control of bioaccumulation (§§ 3.B and 4), (iii) the revision of the chemical and biological testing requirements (§ 3.B), and (iv) the addition of a compliance monitoring section which provides for monitoring to verify compliance with the regulation (§ 5).

#### Scope and Purpose:

This regulation is established for the purpose of controlling the levels of toxic pollutants in surface waters discharged from all sources holding NPDES (VPDES) permits issued pursuant to applicable State Water Control Board regulations. The goal of this regulation is to assure that toxic pollutants are not present in surface waters at levels which are causing or may cause toxicity. This regulation is designed to provide standards and procedures by which the permittee shall minimize, correct or prevent any discharge of toxic pollutants which have a reasonable likelihood of adversely affecting human health or the environment.

VR 680-14-02. Toxics Management Regulation.

#### § 1. Definitions.

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

"Acute toxicity" means an effect that usually occurs shortly after the administration of either a single dose or multiple doses of a pollutant. Lethality to an organism is the usual measure of acute toxicity. Where death is not easily detected immobilization is considered equivalent to death. [ Discharges shall be considered acutely toxic if the LC50 in approved tests is less than 100% effluent ]

"Biological monitoring or biomonitoring" means the repeated measurement of physiological responses of organisms and/or their systems to environmentally induced conditions. These may include:

1. The determination of the effects on aquatic life, including accumulation of pollutants in tissue, in state waters due to the discharge of pollutants by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and at appropriate frequencies and locations.

2. The use of acute and chronic tests which directly measure effluent toxicity to aquatic organisms.

These toxicity tests can be used to identify toxic

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discharges and may help establish effluent limits for permits.

“Chronic toxicity” means an effect that is irreversible or progressive or occurs because the rate of injury is greater than the rate of repair during prolonged exposure to a pollutant. This includes low level, long-term effects such as reduction in growth or reproduction.

“Clean Water Act” or “Act” means 33 USC § 1251 et seq.

[ “Contaminated nonprocess wastewater” means any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct, or waste product by means of rainfall runoff, accidental spills, leaks caused by failure of process equipment or discharges from safety showers and related personal safety equipment. ]

“Discharge” means, when used without qualification, a discharge of a pollutant or any addition of any pollutant or combination of pollutants to state waters or waters of the contiguous zone or ocean other than discharge from a vessel or other floating craft when being used as a means of transportation.

“Effluent limitation” means any restriction imposed by the board on quantities, discharge rates or concentration of pollutants which are discharged from point sources into state waters.

[ “Groundwater” means any water beneath the land surface in the zone of saturation. ]

“Instream waste concentration (IWC)” means the [ percentage concentration ] of [ an ] effluent [ , expressed as a percentage ] which occurs in the receiving waterbody after mixing.

“LC50” means the concentration of a toxic pollutant or effluent, expressed as percent volume, that is lethal to 50% of the test organisms within the prescribed period of time.

“Mixing” means the process by which an effluent is incorporated into the receiving waterbody. [ The following shall be considered when determining effluent mixing:

1. When calculating instream waste concentration, complete mixing will be assumed for discharges to streams, rivers, and riverine estuaries, unless site specific information indicates that other than complete mixing is more appropriate.

2. The critical stream flows to be used shall be the 7 day-10 year low flow value when considering protection of aquatic life and the 30 day-5 year low flow when consideration is for protection of human health effects.

3. For discharges to lakes, estuarine embayments and the open ocean, specific data on waste dispersion will be applied, when available, and where appropriate to the specific discharge situation. Where waste dispersion data are not available, a dilution ratio of 50:1 shall be applied unless the permittee conducts dispersion studies to support another dilution ratio. Protocols for any permittee conducted dispersion study shall be submitted to, and approved by, the board staff prior to study initiation.

4. Toxic pollutants are considered to be conservative when calculating instream waste concentration. A conservative substance is one which enters the water column and persists in downstream segments of the water column unaffected by reactive or mechanical forces. ]

“National Pollutant Discharge Elimination System (NPDES) [ (VPDES) ] Permit” means a permit issued by the board, pursuant to Board Regulation No. 6, [ (VR 680-14-01, ) authorizing, under prescribed conditions the potential or actual discharge of pollutants from a point source to state waters.

[ “No-Discharge Certificate” means a permit issued by the board pursuant to Board Procedural Rule Number 2, authorizing under prescribed conditions, management of pollutants or activities that are not point source discharges to surface waters or that are not point source discharges to ground water. No-Discharge Certificates may be utilized to authorize land application of wastewater or sludge or the complete reuse and recycle of wastewater. ]

[ “Noncontact cooling water” means water which is used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat), or finished product. ]

“No observed effect concentration (NOEC)” means the highest concentration of toxic pollutant or the highest percentage, by volume, of an effluent to which organisms are exposed in a full life cycle or partial life cycle test, which causes no statistically significant adverse effect on the observed parameters (usually survival and growth or reproduction).

“Permit” means a [ No-Discharge Certificate or ] NPDES [ (VPDES) ] permit issued by the board pursuant to applicable board regulations, the Law and the Act.

“Permittee” means any owner or operator who has a currently effective permit issued by the board.

“Point source” means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agricultural land.

[ "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

"Publicly Owned Treatment Works (POTW)" means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment. ]

"State Water Control Law (Law)" means Chapter 3.1 of Title 62.1 (§ 62.1-44.2 et. seq.) of the Code of Virginia.

[ "State waters" means all water, on the surface and below the ground, wholly or partially within or bordering the state or within its jurisdiction. ]

[ "Stormwater" means flows which are from conveyances or systems of conveyances used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished products, byproduct, or waste products located on the site of such operations.

"Surface waters" means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate "wetlands";
3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c. Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and

7. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition. ]

"Toxic pollutant" means any [ pollutant agent or material ] including, but not limited to, those listed under § 307(a) of the Act which after discharge will, on the basis of available information, cause toxicity.

"Toxicity" means [ the inherent potential or capacity of a material to cause adverse effects in a living organism, including ] acute or chronic effects to aquatic life, [ bioaccumulation of pollutants in the tissues of aquatic organisms at levels which result in potential harm to the organism or pose a risk to organisms in the food chain, or ] detrimental effects on human health [ or other adverse environmental effects ].

## § 2. General provisions.

Whenever NPDES [ (VPDES) ] permits [ or No-Discharge Certificates ] for discharges to surface waters are issued, reissued or modified, a determination of the need for toxics management shall be made. [ This regulation does not apply to discharges to wells or to groundwater. ] The initial step of toxics management shall be a program of biological and chemical monitoring for toxic pollutants. The purpose of this monitoring program shall be to develop the data required for establishing water quality based effluent limitations and assessing the extent of effluent toxicity. Further toxics management activities, to include toxicity reduction if needed, shall be required in the permit [ for discharges that fail to meet the criteria of § 4. whenever the results of this monitoring program indicate that toxicity does or may exist. Following the initial data generation, biological monitoring may be required of certain categories of discharges to assure continued compliance with the goals of this regulation. This regulation does not apply to:

1. Discharges to wells or groundwater,
2. Discharges of stormwater, and
3. Discharges of noncontact cooling waters with instream waste concentrations of less than 1.0% and which are not treated with chemical additives. ]

### A. Applicability.

The board shall require any permittee who has a discharge that falls into one or more of the following categories to conduct toxics monitoring:

1. A discharge which [ is known to be toxic has demonstrated actual or potential toxicity ], as defined in § 4 below, or contains toxic pollutants.
2. Any industry that falls into one of the Standard Industrial Classification (SIC) Codes identified in Appendix A.

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3. Any industry with wastewater flow greater than [ or equal to ] 50,000 [ gpd gallons per day ].

4. Publicly Owned Treatment Works (POTW's) with flow greater than [ or equal to ] 1 MGD one million gallons per day ].

5. Any POTW with a pretreatment program.

6. Any other discharge that the board deems has the potential for toxicity or instream impact based on an evaluation of manufacturing processes, indirect discharges, treatment processes, effluent or receiving stream data, or other relevant information.

## [ B. Exemptions to toxics management.

Exemptions to toxics management, except in cases of acute toxicity, may be granted on a case-by-case basis upon successful demonstration of a socio-economic hardship pursuant to 40 CFR § 131.10(e)(6) (1986).

## [ C. B. ] Permit reopening.

Whenever the board determines that a facility has the potential for toxicity or instream impact based on an evaluation of manufacturing processes, treatment processes, effluent or receiving stream data, or other relevant information, the board may modify the permit to include a special condition for the collection of the data required in § 3 instead of waiting for a separate reissuance or modification action.

## § 3. Toxics monitoring program.

### A. Testing requirements.

Each permitted outfall [ to surface waters ] shall be tested in the prescribed manner. [ Modifications to these requirements may be allowed on a case-by-case basis where the specific conditions of the discharge or receiving stream indicate that a full scale toxics monitoring program is not necessary to establish the toxicity of an effluent. Data submitted under any previous toxics monitoring program may be used to satisfy these data requirements if it is indicative of current process and effluent conditions. ] Technical assistance in determining appropriate procedures for these tests may be provided by the board staff. Test protocol, including sampling requirements, shall be approved by the board staff prior to initiation of testing. All data shall be generated within the quality assurance/quality control specifications of the test protocol.

### B. Data requirements.

All dischargers identified under § 2 shall be required to obtain and report the following monitoring data [ except as modified in § 3.A ].

[ 1. Chemical analyses conducted on 24 independent effluent samples collected monthly or semi-monthly

over a period not to exceed two years. Compounds to be analyzed shall be ammonia and chlorine residual (if used in treatment process) and those identified as believed present by municipal applicants in Section II Form A Item 15, or those required to be tested by industrial applicants on Form 2C Item V Part C of the NPDES permit application. Chemical analyses shall be conducted with approved methods.

2. Acute effluent toxicity tests conducted three times over a one-year period on each of two species of aquatic organisms (one vertebrate and one invertebrate), as specified by the board staff. The toxicity tests shall be conducted in such a manner and at sufficient dilution to allow calculation of a valid LC50.

3. Chronic effluent toxicity tests conducted three times over a one year period on the species of aquatic organism which exhibited the most sensitivity during the acute toxicity tests conducted under subparagraph 2 above, or other species approved by the board staff. The tests shall be designed to determine the no observed effect concentration of the effluent on survival and growth or reproduction of the test organism.

4. High performance liquid chromatography analyses conducted on one effluent sample collected each quarter over a one-year period. These tests shall provide data suitable for determination of the presence of compounds exhibiting a log octanol/water partition coefficient greater than 3.5.

5. Gas chromatography/mass spectrometry analyses of the four independent effluent samples collected under paragraph 4 above. These analyses shall be conducted for the purpose of identifying compounds, whether listed under § 307 (a) of the Act or not, which were either not analyzed for or not listed as believed present in the analyses conducted under paragraph 4 above.

Modifications to these requirements may be allowed on a case-by-case basis where the specific conditions of the discharge and/or receiving stream indicate that a full scale toxics monitoring program is not necessary to establish the toxicity of an effluent. ]

[ 1. Acute effluent toxicity tests conducted quarterly over a one-year period on each of two species of aquatic organisms (one vertebrate and one invertebrate), as specified by the board staff. The toxicity tests shall be conducted in such a manner and at sufficient dilution to allow calculation of a valid LC50.

2. Chronic effluent toxicity tests conducted quarterly in conjunction with the acute toxicity tests on the same species of aquatic organisms or other species approved by the board staff. The tests shall be designed to

determine the no observed effect concentration of the effluent on survival and growth or reproduction of the test organism. All discharges with an IWC of less than 1.0% shall be exempted from the requirement for chronic toxicity testing.

3. Chemical analysis for compounds referenced under § 307 (a) of the Act on four independent effluent samples collected in conjunction with the toxicity tests specified in subdivisions 1 and 2 above. In addition, for each sample, the permittee shall tentatively identify a maximum of 30 organic substances which are detected but are not listed pursuant to § 307 (a) of the Act. All of the substances of greatest apparent concentration not listed pursuant to § 307 (a) of the Act for each volatile organic fraction, to a maximum of 10, and all of the substances of greatest apparent concentration not listed pursuant to § 307 (a) of the Act for the combined base/neutral/acid fraction, to a maximum of 20, shall be tentatively identified. Discharges from facilities within the SIC code 4953 shall identify all organic substances detected in the volatile and combined base/neutral/acid fractions.

The permittee may provide additional samples to address data variability during the one-year period of initial data generation. These data may be included in the evaluation of effluent toxicity.

C. The following shall be considered when determining effluent mixing:

1. When calculating instream waste concentration, complete mixing will be assumed for discharges to streams, rivers, and riverine estuaries, unless site specific information indicates that other than complete mixing is more appropriate.
2. The critical stream flows to be used shall be the 7 day-10 year low flow value when considering protection of aquatic life and the 30 day-5 year low flow when consideration is for protection of human health effects.
3. For discharges to lakes, estuarine embayments and the open ocean, specific data on waste dispersion or dilution will be applied, when available, and where appropriate to the specific discharge situation. Where waste dispersion/dilution data are not available, a dilution ratio of 50:1 shall be applied unless the permittee conducts dispersion or dilution studies to support another dilution ratio. Protocols for any permittee conducted study shall be submitted to, and approved by, the board staff prior to study initiation.
4. Toxic pollutants are considered to be conservative when calculating instream waste concentration. A conservative substance is one which enters the water column and persists in downstream segments of the water column unaffected by reactive or mechanical forces. The assumption of conservatism may be

waived based on pollutant-specific and site-specific information provided by the permittee. ]

#### § 4. Effluent toxicity decision criteria.

If the following screen is passed, the effluent shall be considered to [ ~~be nontoxic~~ have demonstrated no actual or potential toxicity and the permittee shall conduct compliance monitoring according the requirements of § 5 ]. If the effluent fails to meet any one of these criteria, [ ~~it shall be deemed toxic~~ for the purposes of this regulation, it shall have demonstrated actual or potential toxicity ] and the permittee shall be required to proceed to the toxicity reduction evaluation as described in § [ 5 6 ].

1. LC50 greater than [ or equal to ] 100% [ in six of the total of eight acute toxicity tests ].

2. NOEC greater than [ or equal to ] instream waste concentration (IWC) [ in six of the total of eight chronic toxicity tests ].

[ ~~3. No compounds with a log octanol/water partition coefficient greater than 3.5 discharged.~~

[ 4. 3. ] No instream exceedence of water quality standards or criteria for protection of aquatic life or human health, where applicable [ pursuant to the Virginia Water Quality Standards (VR 680-21-00), in any of the four samples ].

#### [ § 5. Compliance monitoring.

This monitoring shall be conducted on every discharge of process wastewater or contaminated nonprocess wastewater which has not exhibited actual or potential toxicity as determined in § 4. These monitoring requirements shall also apply to all discharges which have completed toxicity reduction evaluations. The purpose of this monitoring shall be to demonstrate continued compliance with the decision criteria of § 4. The species to be used in the following toxicity tests shall be the one most sensitive species as determined by the testing required in § 3.B or an alternative species approved by the board staff. Test protocols, including sampling requirements, shall be approved by the board staff prior to the initiation of testing.

1. Annual acute toxicity tests shall be conducted on process wastewater discharges.

2. Annual chronic toxicity tests shall be conducted on process wastewater and contaminated nonprocess wastewater discharges with an IWC of 1.0% or greater.

If the acute toxicity tests result in an LC50 of less than 100% effluent or the chronic toxicity tests result in an NOEC less than the IWC, the test shall be repeated within three months.



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If the results of the retest are also indicative of a toxic or potentially toxic effluent, the permittee shall begin the data generation requirements of § 3.B within three months. The discharge shall be subject to the toxicity reduction or elimination requirements of § 5 if the results of this data generation effort indicate actual or potential effluent toxicity according to the criteria in § 4.A.

If the results of the retest do not confirm the first indication of actual or potential effluent toxicity, the permittee may resume annual toxicity testing. ]

§ [ 5. 6 ] Toxicity reduction or elimination measures.

## A. Imposition.

The board shall impose effluent toxicity reduction or elimination measures determined to be necessary as a result of the board's evaluation of the results of the toxics monitoring and other available information.

## B. Procedures.

Upon notification by the staff (executive director) that a discharge is determined to be [ actually or potentially ] toxic by the criteria set forth in § 4 above, the permittee shall begin to develop a toxicity reduction evaluation plan. The [ goal requirement ] of the plan shall be to bring the effluent into compliance with the decision criteria set forth in § 4.

1. A comprehensive toxicity reduction plan shall be submitted to the board for approval within [ 90 120 ] days of notification that a discharge is determined to be [ actually or potentially ] toxic.

2. The plan shall be reviewed by the board staff to determine whether it provides for a prompt and thorough examination of the causes of effluent toxicity and the alternatives for toxicity abatement. If the plan is inadequate, it shall be returned to the permittee with a written explanation of deficiencies which must be corrected within 45 days. If at the end of that time the permittee has not submitted an acceptable toxicity reduction evaluation plan, the board shall find the permittee in violation of the NPDES [ (VPDES) ] permit [ or No-Discharge Certificate ] and shall impose a toxicity reduction evaluation plan schedule either through an enforcement action or as a modification of the NPDES [ (VPDES) ] permit [ or No-Discharge Certificate ].

3. Upon approval of the plan by the staff (executive director), the [ permit may be modified to include the plan and schedule and the ] permittee shall conduct the evaluation [ according to the plan and schedule ].

4. Upon completion of the evaluation, the permittee shall submit a final report to the board which provides detailed descriptions and results of all work done during the evaluation as well as a

recommendation for implementing the preferred reduction/elimination alternative. The final report shall also contain a proposed schedule for implementation of the selected alternative. If the report is inadequate, it shall be returned to the permittee with a written explanation of deficiencies which must be corrected within 45 days. If at the end of that time the permittee has not submitted an acceptable toxicity reduction evaluation report, the board shall find the permittee in violation of the NPDES [ (VPDES) ] permit [ or No-Discharge Certificate ] and shall impose a toxicity reduction schedule either through an enforcement action or as a modification of the NPDES [ (VPDES) ] permit [ or No-Discharge Certificate ].

5. Upon approval of the final report and the implementation schedule, the NPDES [ (VPDES) ] permit [ or No-Discharge Certificate ] shall be modified to include any applicable water quality based limitations [ and , ] a compliance schedule if needed [ or monitoring to assure continued compliance with these regulations as specified in § 5 ]. The permittee shall then conduct the necessary work to bring the discharge into compliance with the [ goals requirements ] established for the toxicity reduction evaluation.

## C. Required plan contents.

The toxicity reduction evaluation plan submitted under [ § 5-B.1 § 6.B.1 ] shall contain, at a minimum, the methods the permittee shall use to [ attempt to ] identify the sources of effluent toxicity, the tests to be used to confirm that these are the [ toxic pollutants sources of toxicity ] in the effluent, a discussion of alternatives to reduce or eliminate the presence of these [ compounds sources ] in the effluent, and a schedule for conducting the evaluation. The plan may also include, at the permittee's option, provisions for conduct of instream studies as outlined in [ § 5-D § 6.D ].

## D. Instream impact studies.

As an initial step in the toxicity reduction evaluation, a permittee may conduct field studies to [ further ] define the [ extent of toxicity and bioaccumulation impact that actually occurs to aquatic life in the receiving stream actual impact of the discharge on aquatic life and human health ]. These studies shall be conducted at stream flows which are as close as practicable to the critical flow of the receiving stream. [ If instream studies are not conducted at or near critical flow conditions, the results of the studies must be predictive of the impacts of the effluent at critical flows. The predictability of the study must be demonstrated prior to its initiation. These studies may not extend the time schedule for conducting a toxicity reduction evaluation beyond two years. ] Protocols for these studies shall be approved by the board staff prior to their initiation.

Where the results of these studies [ or other information

available to the staff ] demonstrate [ conclusively to the satisfaction of the staff (executive director) ] that there is, or would be, no impact on aquatic life or human health from the discharge, the [ requirement for chronic toxicity or bioaccumulation reduction or elimination shall be dropped permit may be modified to remove the requirement for toxicity reduction or elimination ].

[ This exemption shall in no way be applied to a requirement to control acute effluent toxicity.

A permittee may conduct a site-specific standards/criteria modification to demonstrate that statewide safe levels do not apply to the receiving stream in question due to local water quality peculiarities or other site-specific factors. These studies shall be conducted in accordance with guidelines set-forth in the Water Quality Standards. ]

[ E. Exemptions to the requirement for toxicity reduction or elimination.

Exemptions to toxics management which would result in the loss of a designated use of a waterbody may be granted on a case-by-case basis upon a successful demonstration by the permittee pursuant to 40 CFR § 131.10(g) (1986), except in cases of acute toxicity. ]

[ § 6. § 7. ] Effluent limitation determinations.

#### A. Purpose.

Water quality based effluent limitations for toxic pollutants shall be established whenever necessary to assure that effluents meet the decision criteria of § 4.

#### [ B. Basis of limitations.

Limitations for toxic pollutants shall be determined by the board using appropriate scientific data in comparison with any duly adopted Water Quality Standards.

A strict nondegradation policy shall be applied to state waters designated in the Water Quality Standards as high quality resource waters or special use designation waters. These shall include, but are not limited to, waters of parks and wildlife refuges, scenic rivers, natural trout waters, public water supplies and the habitats of threatened or endangered species. ]

#### [ C. B. ] Limitations development.

1. Water quality based effluent limitations shall be developed for toxic pollutants if [ 20% of these 24 ] data [ points ] developed in effluent monitoring (§ 3.B.1) for any toxic pollutant lead to values which indicate violation of the standards or criteria after mixing and compliance with technology-based permit limitations would not prevent such violations.

[ Technology-based limitations shall be considered

adequate for protection of water quality if the data generated in § 3.B.1 indicate that violations would occur less than 20% of the time. ]

2. Water quality based limitations may be developed, or the use of toxicity tests may be relied upon, to determine safe levels of toxic pollutants for which standards or criteria do not exist but were identified during monitoring under [ § 3.B.1 or 3.B.5 § 3.B ] above.

#### [ C. Exemptions.

A permittee may conduct a site-specific standards/criteria modification to demonstrate that standards or criteria adopted in VR 680-21-00 do not apply to the receiving stream in question due to local water quality peculiarities or other site-specific factors. These studies shall be conducted in accordance with guidelines set-forth in the U.S. EPA Water Quality Standards Handbook (1983). ]

[ § 7. § 8. ] Public comment and hearings.

Any modifications of NPDES [ (VPDES) ] permits [ or No-Discharge Certificates ] resulting from the toxics management program shall not be deemed "minor" modifications and shall conform to the requirements contained in the board's Regulation No. 6 [ (VR 680-14-01) ] section entitled "Public Comment and Hearings."

#### [ Appendix A

SIC 1011 - Iron ores

SIC 1021 - Copper ores

SIC 1031 - Lead and zinc ores

SIC 1041 - Gold ores

SIC 1044 - Silver ores

SIC 1061 - Ferroalloy ores, except vanadium

SIC 1094 - Uranium-radium-vanadium ores

SIC 1099 - Metal ores, not elsewhere classified

SIC 22 - Textile mill products

SIC 23 - Apparel and other finished products made from fabrics and similar materials

SIC 2411 - Logging camps and logging contractors (camps only)

SIC 2421 - Sawmills and planing mills, general

SIC 2426 - Hardwood dimension and flooring mills

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- SIC 2429 - Special product sawmills, not elsewhere classified*
- SIC 2431 - Millwork*
- SIC 2434 - Wood kitchen cabinets*
- SIC 2435 - Hardwood veneer and plywood*
- SIC 2436 - Softwood veneer and plywood*
- SIC 2439 - Structural wood members, not elsewhere classified*
- SIC 2491 - Wood preserving*
- SIC 2493 - Reconstituted wood products*
- SIC 2499 - Wood products, not elsewhere classified*
- SIC 2611 - Pulp mills*
- SIC 2621 - Paper mills*
- SIC 2631 - Paperboard mills*
- SIC 2652 - Set-up paperboard boxes*
- SIC 2653 - Corrugated and solid fiber boxes*
- SIC 2655 - Fiber cans, tubes, drums, and similar products*
- SIC 2656 - Sanitary food containers*
- SIC 2657 - Folding paperboard boxes*
- SIC 2671 - Paper coated and laminated, packaging*
- SIC 2672 - Paper coated and laminated, not elsewhere classified*
- SIC 2673 - Bags: plastics, laminated and coated*
- SIC 2674 - Bags: uncoated paper and multiwall*
- SIC 2675 - Die-cut paper and paperboard and cardboard*
- SIC 2676 - Sanitary paper products*
- SIC 2677 - Envelopes*
- SIC 2678 - Stationery, tablets, and related products*
- SIC 2679 - Converted paper and paperboard products, not elsewhere classified*
- SIC 2711 - Newspapers: publishing or publishing and printing*
- SIC 2721 - Periodicals: publishing or publishing and printing*
- SIC 2731 - Books: publishing or publishing and printing*
- SIC 2732 - Book printing*
- SIC 2741 - Miscellaneous publishing*
- SIC 2752 - Commercial printing, lithographic*
- SIC 2754 - Commercial printing gravure*
- SIC 2759 - Commercial printing*
- SIC 2761 - Manifold business forms*
- SIC 2771 - Greeting card publishing*
- SIC 2782 - Blankbooks, looseleaf binders and devices*
- SIC 2796 - Platemaking and related services*
- SIC 2812 - Alkalies and chlorine*
- SIC 2813 - Industrial gases*
- SIC 2816 - Inorganic pigments*
- SIC 2819 - Industrial inorganic chemicals not elsewhere classified*
- SIC 282 - Plastic materials and synthetic resins, synthetic and other manmade fibers, except glass*
- SIC 2822 - Synthetic rubber (vulcanizable)*
- SIC 2833 - Medicinal chemicals and botanical products*
- SIC 2834 - Pharmaceutical preparations*
- SIC 2835 - Diagnostic substances*
- SIC 2836 - Biological products, except diagnostic*
- SIC 2841 - Soap and other detergents, except specialty cleaners*
- SIC 2851 - Paints, varnishes, lacquers, enamels, and allied products*
- SIC 2861 - Gum and wood chemicals*
- SIC 2865 - Cyclic (coal tar) crudes, and cyclic intermediates, dyes and organic pigments (lakes and toners)*
- SIC 2869 - Industrial organic chemicals, not elsewhere classified*
- SIC 2879 - Pesticides and agricultural chemicals, not elsewhere classified*
- SIC 2891 - Adhesive and sealants*

- SIC 2892 - Explosives*
- SIC 2893 - Printing ink*
- SIC 2895 - Carbon black*
- SIC 2899 - Chemicals and chemical preparation, not elsewhere classified*
- SIC 2911 - Petroleum refining (including (1) topping plant; (2) topping and cracking plants; (3) topping, cracking and petroleum plants; (4) integrated plants; and (5) integrated and petrochemical plants)*
- SIC 2951 - Paving mixtures and blocks*
- SIC 2952 - Asphalt felts and coatings*
- SIC 3011 - Tires and inner tubes*
- SIC 3021 - Rubber and plastics footwear (rubber only)*
- SIC 3052 - Rubber and plastics hose and belting (rubber only)*
- SIC 3053 - Gaskets, packing, and sealing devices (rubber packing only)*
- SIC 3069 - Fabricated rubber products, not elsewhere classified*
- SIC 308 - Miscellaneous plastics products*
- SIC 31 - Leather and leather products*
- SIC 3312 - Steel works, blast furnaces (including coke ovens) and rolling mills*
- SIC 3313 - Electrometallurgical products*
- SIC 3315 - Steel wire drawing and steel nails and spikes*
- SIC 3316 - Cold rolled steel sheet, strip and bars*
- SIC 3317 - Steel pipe and tubes*
- SIC 3321 - Gray iron foundries*
- SIC 3322 - Malleable iron foundries*
- SIC 3324 - Steel investment foundries*
- SIC 3325 - Steel foundries, not elsewhere classified*
- SIC 3331 - Primary smelting and refining of copper*
- SIC 3334 - Primary production of aluminum*
- SIC 3339 - Primary smelting and refining of nonferrous metals, not elsewhere classified*
- SIC 3341 - Secondary smelting and refining of nonferrous metals*
- SIC 3351 - Rolling, drawing, and extruding of copper*
- SIC 3353 - Aluminum sheet, plate, and foil*
- SIC 3354 - Aluminum extruded products*
- SIC 3355 - Aluminum rolling and drawing, not elsewhere classified*
- SIC 3356 - Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum*
- SIC 3357 - Drawing and insulating of nonferrous wire*
- SIC 3363 - Aluminum die-castings*
- SIC 3364 - Nonferrous die-castings, except aluminum*
- SIC 3365 - Aluminum foundries*
- SIC 3366 - Copper foundries*
- SIC 3369 - Nonferrous foundries, except aluminum and copper*
- SIC 3398 - Metal heat treating*
- SIC 3399 - Primary metal products, not elsewhere classified*
- SIC 3411 - Metal cans*
- SIC 3412 - Metal shipping barrels, drums, kegs and pails*
- SIC 3421 - Cutlery*
- SIC 3423 - Hand and edge tools, except machine tools and handsaws*
- SIC 3425 - Handsaws and saw blades*
- SIC 3429 - Hardware, not elsewhere classified*
- SIC 3431 - Enameled iron and metal sanitary ware*
- SIC 3432 - Plumbing fixture fittings and trims (brass goods)*
- SIC 3433 - Heating equipment, except electric and warm air furnaces*
- SIC 3441 - Fabricated structural metal*
- SIC 3442 - Metal doors, sash, frames, molding, and trim*
- SIC 3443 - Fabricated platework (boiler shops)*
- SIC 3444 - Sheet metal work*

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<i>SIC 3446 - Architectural and ornamental metal work</i>	<i>field machinery and equipment</i>
<i>SIC 3448 - Prefabricated metal buildings and components</i>	<i>SIC 3533 - Oil field machinery and equipment</i>
<i>SIC 3449 - Miscellaneous metal work</i>	<i>SIC 3534 - Elevators and moving stairways</i>
<i>SIC 3451 - Screw machine products</i>	<i>SIC 3535 - Conveyors and conveying equipment</i>
<i>SIC 3452 - Bolts, nuts, screws, rivets, and washers</i>	<i>SIC 3536 - Hoists, industrial cranes, and monorail systems</i>
<i>SIC 3462 - Iron and steel forgings</i>	<i>SIC 3537 - Industrial trucks, tractors, trailers, and stackers</i>
<i>SIC 3463 - Nonferrous forgings</i>	<i>SIC 3541 - Machine tools, metal cutting types</i>
<i>SIC 3465 - Automotive stampings</i>	<i>SIC 3542 - Machine tools, metal forming types</i>
<i>SIC 3466 - Crowns and closures</i>	<i>SIC 3544 - Special dies and tools, die sets, jigs and fixture and industrial molds</i>
<i>SIC 3469 - Metal stampings, not elsewhere classified</i>	<i>SIC 3545 - Maching tool accessories and measuring devices</i>
<i>SIC 347 - Coating, engraving, and allied services</i>	<i>SIC 3546 - Power driven hand tools</i>
<i>SIC 3482 - Small arms ammunition</i>	<i>SIC 3547 - Rolling mill machinery and equipment</i>
<i>SIC 3483 - Ammunition, except for small arms, not elsewhere classified</i>	<i>SIC 3548 - Welding apparatus</i>
<i>SIC 3484 - Small arms</i>	<i>SIC 3549 - Metal working machinery, not elsewhere classified</i>
<i>SIC 3489 - Ordnance and accessories, not elsewhere classified</i>	<i>SIC 3552 - Textile machinery</i>
<i>SIC 3493 - Steel springs, except wire</i>	<i>SIC 3553 - Woodworking machinery</i>
<i>SIC 3494 - Valves and pipe fittings, except plumber's brass goods</i>	<i>SIC 3554 - Paper industries machinery</i>
<i>SIC 3495 - Wire springs</i>	<i>SIC 3555 - Printing trades machinery and equipment</i>
<i>SIC 3496 - Miscellaneous fabricated wire products</i>	<i>SIC 3556 - Food products machinery</i>
<i>SIC 3497 - Metal foil and leaf</i>	<i>SIC 3559 - Special industry machinery, not elsewhere classified</i>
<i>SIC 3498 - Fabricated pipe and pipe fittings</i>	<i>SIC 3561 - Pumps and pumping equipment</i>
<i>SIC 3499 - Fabricated metal products, not elsewhere classified</i>	<i>SIC 3562 - Ball and roller bearings</i>
<i>SIC 3511 - Steam, gas, and hydraulic turbines and turbine generator set units</i>	<i>SIC 3563 - Air and gas compressors</i>
<i>SIC 3519 - Internal combustion engines, not elsewhere classified</i>	<i>SIC 3564 - Blowers and exhaust and ventilation fans</i>
<i>SIC 3523 - Farm machinery and equipment</i>	<i>SIC 3565 - Packaging machinery</i>
<i>SIC 3524 - Garden tractors and law and garden equipment</i>	<i>SIC 3566 - Speed changers, industrial high speed drives, and gears</i>
<i>SIC 3531 - Construction machinery and equipment</i>	<i>SIC 3567 - Industrial process furnaces and ovens</i>
<i>SIC 3532 - Mining machinery and equipment, except oil</i>	<i>SIC 3568 - Mechanical power transmission equipment, not elsewhere classified</i>

- SIC 3569 - General industrial machinery and equipment, not elsewhere classified*
- SIC 3571 - Electronic computing equipment*
- SIC 3572 - Computer storage devices*
- SIC 3577 - Computer peripheral equipment, not elsewhere classified*
- SIC 3578 - Calculating and accounting machines, except electronic computing equipment*
- SIC 3579 - Office machines, not elsewhere classified*
- SIC 3581 - Automatic merchandising machines*
- SIC 3582 - Commercial laundry, dry cleaning and pressing machines*
- SIC 3585 - Air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment*
- SIC 3586 - Measuring and dispensing pumps*
- SIC 3589 - Service industry machines, not elsewhere classified*
- SIC 3592 - Carburetors, pistons, piston rings, and valves*
- SIC 3596 - Scales and balances, except laboratory*
- SIC 3599 - Industrial machinery, not elsewhere classified*
- SIC 3612 - Power distribution, and specialty transformers*
- SIC 3613 - Switchgear and switchboard apparatus*
- SIC 3621 - Motors and generators*
- SIC 3624 - Carbon and graphite products*
- SIC 3625 - Industrial controls*
- SIC 3629 - Electrical industrial apparatus, not elsewhere classified*
- SIC 3631 - Household cooking equipment*
- SIC 3632 - Household refrigerators and home and farm freezers*
- SIC 3633 - Household laundry equipment*
- SIC 3634 - Electric housewares and fans*
- SIC 3635 - Household vacuum cleaners*
- SIC 3639 - Household appliances, not elsewhere classified*
- SIC 3641 - Electric lamps*
- SIC 3643 - Current-carrying wiring devices*
- SIC 3644 - Noncurrent-carrying wiring devices*
- SIC 3645 - Residential electric lighting fixtures*
- SIC 3646 - Commercial, industrial, and institutional electric lighting fixtures*
- SIC 3647 - Vehicular lighting equipment*
- SIC 3648 - Lighting equipment, not elsewhere classified*
- SIC 3651 - Radio and television receiving sets, except communication types*
- SIC 3652 - Phonograph records and prerecorded magnetic tape*
- SIC 3661 - Telephone and telegraph apparatus*
- SIC 3663 - Radio and television transmitting and signaling equipment and apparatus*
- SIC 3671 - Electron tubes*
- SIC 3674 - Semiconductors and related devices*
- SIC 3675 - Electronic capacitors*
- SIC 3676 - Resistors for electronic applications*
- SIC 3677 - Electronic coils, transformers, and other inductors*
- SIC 3678 - Connectors for electronic applications*
- SIC 3679 - Electronic components, not elsewhere classified*
- SIC 3691 - Storage batteries*
- SIC 3692 - Primary batteries, dry and wet*
- SIC 3694 - Electrical equipment for internal combustion engines*
- SIC 3699 - Electrical machinery, equipment, and supplies, not elsewhere classified*
- SIC 3711 - Motor vehicles and passenger car bodies*
- SIC 3713 - Truck and bus bodies*
- SIC 3714 - Motor vehicle parts and accessories*
- SIC 3715 - Truck trailers*
- SIC 3721 - Aircraft*

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- SIC 3724 - Aircraft engine and engine parts*
- SIC 3728 - Aircraft part and auxiliary equipment, not elsewhere classified*
- SIC 3731 - Ship building and repairing*
- SIC 3732 - Boat building and repairing*
- SIC 3743 - Railroad equipment*
- SIC 3751 - Motorcycles, bicycles, and parts*
- SIC 3761 - Guided missiles and space vehicles*
- SIC 3764 - Guided missile and space vehicle propulsion units and propulsion unit parts*
- SIC 3769 - Guided missile and space vehicle parts and auxiliary equipment, not elsewhere classified*
- SIC 3792 - Travel trailers and campers*
- SIC 3795 - Tank and tank components*
- SIC 3799 - Transportation equipment, not elsewhere classified*
- SIC 3812 - Search, detection, navigation and guidance equipment*
- SIC 3821 - Laboratory apparatus and furniture*
- SIC 3822 - Automatic controls for regulating residential and commercial environments and appliances*
- SIC 3823 - Industrial instruments for measurement, display, and control of process variable; and related products*
- SIC 3824 - Totalizing fluid meters and counting devices*
- SIC 3825 - Instruments for measuring and testing of electricity and electrical signals*
- SIC 3826 - Laboratory analytical instruments*
- SIC 3827 - Optical instruments and lenses*
- SIC 3829 - Measuring and controlling devices, not elsewhere classified*
- SIC 3841 - Surgical and medical instruments and apparatus*
- SIC 3842 - Orthopedic, prosthetic, and surgical appliances and supplies*
- SIC 3843 - Dental equipment and supplies*
- SIC 3844 - X-ray apparatus and tubes and related irradiation apparatus*
- SIC 3845 - Electromedical and electrotherapeutic apparatus*
- SIC 3851 - Ophthalmic goods*
- SIC 3861 - Photographic equipment and supplies*
- SIC 3873 - Watches, clocks, clock-work operated devices and parts*
- SIC 3911 - Jewelry, precious metal*
- SIC 3914 - Silverware, plated ware, and stainless steel ware*
- SIC 3915 - Jeweler's findings and materials and lapidary work*
- SIC 3931 - Musical instruments*
- SIC 3942 - Dolls*
- SIC 3944 - Games, toys, and children's vehicles, except dolls and bicycles*
- SIC 3949 - Sporting and athletic goods, not elsewhere classified*
- SIC 3951 - Pens, mechanical pencils and parts*
- SIC 3952 - Lead pencils, crayons, and artists' materials*
- SIC 3955 - Carbon paper and inked ribbons*
- SIC 3961 - Costume jewelry and costume novelties, except precious metal*
- SIC 3991 - Brooms and brushes*
- SIC 3993 - Signs and advertising displays*
- SIC 3995 - Burial caskets*
- SIC 3996 - Linoleum asphalted-felt-base and other hard surface floor coverings, not elsewhere classified*
- SIC 4911 - Electric service (limited to steam electric power plants)*
- SIC 4953 - Refuse systems ]*

# STATE CORPORATION COMMISSION

## STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 6, 1988

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS870353

Ex Parte: In the matter of  
adopting revised Rules Governing  
Group Self-Insurers of Liability  
Under the Virginia Workers'  
Compensation Act.

### ORDER ADOPTING REGULATION

WHEREAS, pursuant to an order entered herein November 17, 1987, and a Motion for Continuance which was granted on December 17, 1987, the Commission conducted a hearing on January 25, 1988, for the purpose of considering comments of interested persons concerning the adoption of a revised regulation proposed by the Bureau of Insurance and entitled "Rules Governing Group Self-Insurers of Liability under the Virginia Workers' Compensation Act"; and

WHEREAS, the Commission has considered the proposed revised regulation, the comments of interested parties, the testimony adduced at the hearing and the law applicable in this matter,

THE COMMISSION is of the opinion, finds and ORDERS that the proposed revised regulation entitled "Rules Governing Group Self-Insurers of Liability under the Virginia Workers' Compensation Act," as amended, which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED, to be effective May 1, 1988.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to J. Maurice Miller, Jr., Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208; Howard W. Dobbins, Esquire, Williams, Mullen, Christian & Dobbins, P.C., P.O. Box 1320, Richmond, Virginia 23210; Paul M. Shufford, Esquire, 605 Mutual Building, Richmond, Virginia 23219; Thomas A. Lisk, Esquire, Hazel, Thomas, Fiske, Beckhorn & Hanes, P.O. Box 14515, Richmond, Virginia 23221; and the Bureau of Insurance in care of Deputy Commissioner Stephen J. Kaufman who shall forthwith mail a copy of this order together with a copy of the regulation to every licensed group self-insurance association in this Commonwealth.

Title of Regulation: INS870353. Rules Governing Group Self-Insurers of Liability Under the Virginia Workers' Compensation Act.

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

Effective Date: May 1, 1988

### § 1. Authority.

This regulation is promulgated and adopted pursuant to and in accordance with the provisions of § 65.1-104.2. (All citations to statutory provisions in this regulation refer to the Code of Virginia.)

This regulation shall become effective ~~February 1, 1988~~ [ ~~January 1, 1988~~ May 1, 1988 ].

### § 2. Purpose.

The purpose of this regulation is to set forth rules, forms and procedural requirements that the Commission deems necessary to carry out the provisions of § 65.1-104.2.

### § 3. Definitions.

(f) "Act" means the Virginia Workers' Compensation Act as provided by Title 65.1.

(g) "Administrator" means the individual, partnership or corporation authorized to serve as a representative of an association and its members in carrying out the policies of the board and managing the association's activities.

(a) "Commission" means State Corporation Commission.

(d) "Common interest" means employers engaged in similar types of activities, including political subdivisions of this Commonwealth. If an association is licensed by the Commission, different businesses which are owned or controlled by a member of the association are eligible for membership in such association.

(k) "Contributions" means the amount of advance payments required of each member in order to fund the association's obligations under the Act.

(e) "Employer" shall have the definition provided by § 65.1-3.

(b) "Group self-insurance association" or "association" means an association organized by two or more employers having a common interest that have entered into agreements to pool their liabilities under the Virginia Workers' Compensation Act.

(h) "Indemnity agreement and power of attorney" means the written agreement executed by each member of the association in which each member (i) agrees to assume and discharge, jointly and severally, any liability under the Act of any and all members party to such agreement and (ii) grants the administrator power of attorney to act for and bind the members in all transactions relating to or arising out of the operations of the association.

(e) "Member" [or "member in good standing" ] means an employer party to an indemnity agreement for



# State Corporation Commission

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membership in a group self-insurance association *who has been approved [ by the Commission pursuant to § 56.1-104.2 in accordance with the requirements of § 6 of this regulation ]*.

(4) "Members' supervisory board," or "board," means the representative body selected by the members to be responsible for holding and managing the assets and directing the affairs of the association and for assuring that the association, through its members, is financially sound and able to meet its obligations under the Act.

(5) "Service agent" means any individual, partnership or corporation that may provide services including, but not limited to, claims adjustment, safety engineering, compilation of statistics and the preparation of contribution payment and loss reports, preparation of other required self-insurance reports and the administration of a claims fund.

§ 4. Application for license as group self-insurance association - requirements; approval; review.

Two or more employers having a common interest may be licensed by the Commission as a group self-insurance association for the purpose of entering into agreements to pool their liabilities under the Act. The application for a license shall be made on the form prescribed by the Commission and shall contain answers to all questions and shall be verified by the oath or affidavit of at least one member of the board of the association and the administrator.

If, after review of the association's application as well as the additional information required by § 5 of this regulation, the Commission is satisfied that it has satisfactory proof of (i) the solvency of each member of the association, (ii) the financial ability of each employer to meet its obligations as a member and (iii) the ability of the association to pay or cause to be paid the compensation in the amount and manner and when due as provided for in the Act, the Commission may issue a license to the association.

The license may be revoked if the association fails to comply with all conditions and requirements set forth in this regulation and the Act.

*[ The license expires on June 30 and must be renewed annually. Renewal of the license will require that evidence of the surety bond or security deposit for the current fiscal period (as required by § 7 of this regulation) be filed with the Bureau no later than June 15th of each year or such other time as the Commission may require.*

*Continuance of the license will require that the association maintain and produce on request by the Commission evidence of continuing compliance with any requirements imposed under § 7 of this regulation. ]*

§ 5. Application for license as group self-insurance

association - additional requirements.

1. A. An application submitted by a group self-insurance association shall be accompanied by the following items. These items shall be subject to the approval of the Commission:

(a) 1. A copy of the members' indemnity agreement and power of attorney required by § 13 of this regulation binding the association and each member of the association, jointly and severally, to comply with the provisions of the Act and copies of any other governing instruments of the proposed group self-insurance association;

(b) 2. An executed copy of the application of each employer for membership in the association on the effective date of the license of the association;

(c) 3. Financial statements of all applicants for membership showing that the membership of the proposed association has a combined net worth of at least one million dollars. Political subdivisions of this Commonwealth may combine to form associations without complying with this requirement;

(d) 4. Proof of payment by each member of at least 25% of its estimated first year's contribution into a designated depository;

(e) 5. A confirmation of excess insurance, *if excess insurance is required*, by a licensed insurer in an amount acceptable to the Commission which complies with the requirements set forth in § 10 of this regulation. However, the Commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer;

(f) 6. Designation of the board and of the administrator of the association, together with properly executed biographical affidavits for each member of the board and for the administrator or the principal officers of a corporation serving as an administrator. Affidavits are to be submitted on a form prescribed by the Commission;

(g) 7. Information showing that the association has, within its own organization or by contract with an approved service agent, ample adequate facilities and competent personnel to service its program with respect to underwriting matters, claims adjusting, and industrial safety engineering. Copies of all executed servicing agreements shall be filed with the Commission;

(h) 8. A confirmation of a fidelity bond in a form and amount acceptable to the Commission;

(i) 9. Deposit of securities or a surety bond with the State Treasurer of Virginia in an amount acceptable to the Commission in accordance with the requirements

# State Corporation Commission

of § 7 of this regulation;

(j) 10. A projection of administrative expenses for the first year of operation in an amount and as a percentage of the estimated annual contributions;

(k) 11. A statement regarding the type of business and guidelines to be used to determine common interest; [ and ]

(l) 12. A copy of the association's contracts with the service agent and the administrator which sets forth the terms and obligations of the agreement.

2. B. An application submitted by a group self-insurance association shall be accompanied by all of the following:

(a) 1. A composite listing of the estimated annual gross contribution to be developed by each member of the association individually and in the aggregate for the association, which, in the aggregate, shall be not less than [ \$350,000 for each of the association's first two years and thereafter for subsequent years shall be not less than ] \$250,000 \$500,000, provided that this [ latter ] requirement shall not apply to groups licensed prior to the effective date of this regulation; [ and ]

(b) 2. The application shall be accompanied by any other information the Commission requires.

3. C. Any subsequent revisions to items submitted under the provisions of §§ 4 and 5 of this regulation will be filed with and subject to approval by the Commission. Any subsequent revisions of the items in subsection 2 B of this section will be filed with the Commission.

§ 6. Approval of [ new ] members of association.

[ After the effective date of the license issued an association, new applications for membership shall not become effective until approved by the board or the administrator and subsequently ratified by the board Commission pursuant to § 65-1-104.2. The Commission may, at any time ; revoke withdraw its approval of a membership after giving proper notice if the Commission determines that the member is not in compliance with this regulation. Prior to revocation withdrawal of approval by the Commission or any other revocation by the association, the member will be considered to be a member in good standing with the association. ]

[ A copy of the The application for membership submitted to the association in a form satisfactory to the Commission shall be retained by the association. The application shall include evidence of the execution of the indemnity agreement and power of attorney required by § 13 of this regulation together with approval of the applicant by the association and shall be accompanied by the applicant's financial statement. The association shall at all times have in its possession a current financial statement for each member in a form acceptable to the

Commission and any other financial information deemed necessary by the association to verify the member's ability to honor the joint and several liability to the association as a condition to continued coverage. Any member who by its financial statement cannot demonstrate its financial ability to honor the joint and several liability shall be removed from membership in the association by the board. ]

Application for membership in an association shall be made on a form approved by the Commission. The application shall include (i) acknowledgement of the execution of the indemnity agreement and power of attorney required by § 13 of this regulation, (ii) the applicant's current financial statement on a form approved by the Commission demonstrating the solvency of the applicant and its financial ability to meet its obligations as a member and (iii) the approval by or on behalf of the board of the applicant's membership. A copy of the completed application shall be filed with the Commission by the board within seven days after the effective date of coverage whereupon the Commission shall be deemed to have granted authorization for the applicant to become a member of the association as of such effective date. The Commission may, after notice to an association, require that applications for membership in such association be approved by the Commission before the applicant may become a member of the association. The association shall at all times have in its possession, in a form acceptable to the Commission, a current financial statement for each member. The requirement for having a current financial statement as a condition of membership or otherwise shall not apply to governmental entities which are not required by law to have an annual audit performed.

The Commission may, at any time, withdraw approval of any member after giving proper notice if the Commission determines that the member is not in compliance with this regulation. Prior to withdrawal of approval by the Commission or any revocation or termination by the association, the member will be considered to be a member in good standing with the association. Any member who cannot demonstrate its solvency and its financial ability to meet its obligations as a member shall be removed from membership in the association by the board. ]

§ 7. Security deposit and surety bond requirement.

A. Except as provided in subsection B of this section, each group self-insurance association licensed by the Commission shall maintain with the State Treasurer a security deposit of acceptable securities or surety bond in an amount [ no less than ] the minimum amount of annual contributions required for the association by subsection 2(a) of Section 5 of this regulation [ \$250,000 for each plan year, or such other of \$250,000 for the first plan year, or such other amount as the Commission prescribes, and for succeeding plan years such ] amount as the Commission deems reasonable [ for each plan year taking into account the financial condition of the association and any excess insurance carried by the association ] . The

# State Corporation Commission

Commission may, from time to time, [ increase, ] release or reduce the security deposit or surety bond requirement [ for a given plan year ]. The security deposit or surety bond shall be held by the State Treasurer pursuant to § 65.1-104.1(c) , and so far as not inconsistent with the provisions of the Act or these regulations shall be subject to the provisions of Article 7, Chapter 10, Title 38.2 of the Code of Virginia.

For the purposes of this regulation, acceptable securities shall be (i) investments allowed by § 2.1-327 (legal investments for public sinking funds) and § 2.1-328 (legal investments for other public funds), (ii) securities issued by states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc., (iii) revenue bonds rated Aa (AA) or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc. that are bonds issued by municipalities or political subdivisions of this Commonwealth or any other state, (iv) securities issued by the Federal Home Loan Banks, and (iv) securities issued by the Federal Intermediate Credit Banks.

Surety bonds deposited pursuant to this section shall be issued by an insurer duly licensed in this Commonwealth to transact a surety business and shall not either directly or indirectly be under the same ownership or management as the principal on [ this bond such bonds ]. ~~The surety bond shall be designated as applying to [ a specific plan year and each plan year shall have its own surety bond in the amount required by the Commission agreements approved or awards by the Industrial Commission of Virginia made at any time on account of injuries or deaths occurring during the continuance of the principal's license and the continuance of the bond ].~~

In addition to the minimum security deposit or surety bond required by this section, the Commission may require additional securities or bond that surety it considers appropriate after giving consideration to such factors as excess insurance ; ~~unassigned surplus of the association~~ and the financial ability of the group to meet its obligations under the Act.

B. As an alternative to the security deposit or surety bond required by subsection A of this section, a group self-insurance association may have an appropriate endorsement attached to its contracts for excess insurance as required in § 10 of this regulation. The endorsement must provide that in the event the group self-insurance association fails to pay to any employee or dependent of any employee any compensation provided by the Act, the excess coverage insurer will become liable immediately for 100% of the compensation and will make payment as directed by the Industrial Commission of Virginia.

C. Any deposit made with the State Treasurer prior to the effective date of this regulation must be maintained with the State Treasurer until specifically released in writing by the Commission.

## § 8. Investment.

The board of an association may, in its discretion, invest funds in any type of investments authorized by [ §§ 38.1-217.18, 38.1-217.21, 38.1-217.22, 38.1-217.24, and 38.1-217.25 §§ 38.2-1415, 38.2-1418, 38.2-1419, 38.2-1421, 38.2-1432 ] and [ by ] § 7 of this regulation. Other investments may be made subject to the approval of the Commission. All such investments shall be authorized or approved by the board in the manner contemplated by the provisions of [ § 38.1-217.9 § 38.2-1408 ].

## § 9. Filing of reports.

Each association shall file annually with the Commission on or before March 1, of each year [ a an annual ] statement showing its financial operations and condition for the most recently completed calendar year. The Commission, for good cause, may extend the time for filing the annual ~~statements~~ statement by not more than ~~thirty~~ 60 days. *In addition, each association shall furnish a copy of an audited statement of its financial operations and conditions prepared by an independent certified public accountant within six months of the end of the association's fiscal period.*

This annual statement shall contain a report in detail of the association's assets, liabilities, revenues and disbursements during this year, and all other information which the Commission may deem necessary to secure a full and accurate knowledge of the financial affairs and condition of the association.

The Commission may prescribe the form of the annual statement and of any necessary schedules and exhibits. In addition to the annual statement, the Commission may require any association to [ timely ] file [ timely ] additional financial information, including interim financial reports.

## § 10. Contracts for excess insurance.

Specific and aggregate excess insurance may be required as a condition for licensing a group self-insurance association and shall be subject to the following requirements:

(a) 1. No contract or policy of excess liability insurance shall be recognized by the Commission in considering the ability of an applicant to fulfill its financial obligations under the Act unless this contract or policy:

(1) (a) Is issued by an insurer licensed or approved by the Commission. However, the Commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer;

(2) (b) Is not cancellable or terminable for any reason except upon 60 days written notice sent by registered or certified mail to:

# State Corporation Commission

(+) (1) The association; and

(+) (2) The Commission.

(+) (c) Is automatically renewable at the expiration of the policy period except upon 60 days written notice sent, by registered or certified mail to:

(+) (1) The association; and

(+) (2) The Commission.

(+) 2. If the contract or policy contains any type of commutation clause, it shall provide in substance:

(+) (a) That any commutation effected under the policy shall not relieve the underwriter or underwriters of further liability in respect to claims and expenses unknown at the time of such commutation or in regard to claims apparently closed but which may be subsequently revived by or through a competent authority; and

(+) (b) That in the event the underwriter proposes to settle liability to the association for any future payments payable as compensation for injuries occurring during the term of the policy by the payment of a lump sum to be fixed as provided in the commutation clause of the policy, not less than 30 days' prior notice of this commutation shall be given to the Commission by registered or certified mail by the underwriter or its agent.

(+) 3. In the event any commutation is effected, the Commission shall have the right to direct that this sum either:

(+) a. Be placed in trust for the benefit of the injured employee or dependent entitled to the future payment of benefits, or

(+) b. Be invested by the association in the manner permitted by § 8 of this regulation and held along with any income or gains from the investments in a special reserve subject to further order of the Commission to assure the future payment of compensation to the employee or dependent entitled to the compensation.

(+) 4. No more than one association, which shall be defined as the named insured, shall be covered by any contract or policy of excess liability insurance. Any reinsurance contract issued on any contract or policy of excess liability shall contain a clause providing that, (i) the reinsurance is written expressly for, and for the protection of, the named insured, and (ii) in the event of the aggregate and/or specific excess underwriter's going into liquidation or being otherwise unable to pay to the named insured, the reinsurer of the aggregate and/or specific excess underwriter will pay benefits as may be due under

the terms of the reinsurance contract direct directly to the named insured;

(+) 5. Copies of the complete contracts or policies of excess liability insurance, complete with all endorsements thereto, shall be filed with the Commission.

*The Commission may release the association from [ this the ] excess insurance requirement if the contingency reserve established by the association is in an amount determined by the Commission to be adequate.*

## § 11. Responsibilities of members' supervisory board.

The members' supervisory board shall be responsible for holding and managing the assets and directing the affairs of an association and shall be elected in the manner prescribed by the association's governing instruments. At least three-fourths of the board must be members of the association, but a supervisory board member shall not be an owner, officer or employee of any service organization, its parent or any of its affiliated companies, under contract with the association. The board shall supervise the finances of the association and the association's operations to the extent necessary to assure conformity with law, this regulation, the members' indemnity agreement and power of attorney, and the association's governing instruments. The members' supervisory board shall take all necessary precautions to safeguard the assets of the association, including, but not limited to, the following:

(+) 1. Monitoring the financial condition of each member of the association (unless proof of financial condition is not required under § 5 A.3 of this regulation), and doing all other acts necessary to assure that each member continues to be able to fulfill the obligations of membership; and also reporting promptly to the Commission any grounds for believing that a change in any member's financial condition, withdrawal of a member, or any other circumstances affecting the association's ability to meet its obligations. A licensed association, other than those exempted under Section 5.1(c); may satisfy the monitoring of a member's financial condition by having the members attest in writing to their solvency in subsequent years. If the association has the endorsement to its excess insurance as specified in subsection B of Section 7, financial statements may be required if considered necessary by the board ;

(+) 2. Designating an administrator to administer the affairs of the association, who shall furnish a fidelity bond with the association as obligee, in an amount sufficient to protect the association against the misappropriation or misuse of any monies or securities. The amount of the bond shall be determined by the Commission and evidence of the bond shall be filed with the Commission, said bond being one of the conditions required for licensing of

# State Corporation Commission

the association. The administrator shall not be an owner, officer or employee of any service agent, its parent or any of its affiliated companies, any of which are under contract with the association;

(e) 3. Retaining control of all monies collected for the association and the disbursement of such monies by the association. All assets of the association shall remain in the custody of the board or the authorized administrator. However, a claims fund for payment of benefits due and other related expenses may be established for the use of any authorized service agent;

(d) 4. Active efforts to collect delinquent accounts resulting from any past due contributions by members. ~~[ Any member of an association who fails to make the required contributions after due notice ] may be declared ineligible for the self-insurance privilege [ shall no longer be deemed a member in good standing of such association until this past due account, including cost of collection, has been paid or adequately provided for The board shall terminate in the manner provided by § 65.1-105 B any member delinquent for more than 30 days in the payment of any subscription charge or assessment billed to such member ];~~

(e) 5. The members' supervisory board or the administrator shall not use any of the monies collected for any purpose unrelated to securing the members' liability under the Act. Further, they shall be prohibited from borrowing any moneys from the association or in the name of the association without advising the Commission of the nature and purpose of the loan and obtaining Commission approval;

(f) 6. The members' supervisory board shall assure that the office of the administrator of the association and all pertinent records necessary to verify the accuracy and completeness of all reports submitted to the Commission are maintained within this Commonwealth;

(g) 7. The members' supervisory board shall ~~[ assure require ]~~ that payroll verifications of all members of the associations are conducted ~~;~~ and within ~~[ 120 180 ]~~ days after the close of a plan year and ~~[ the board shall require that efforts are made to collect ]~~ any additional amounts due ~~[ are collected ]~~ within 30 days of the completion of ~~[ the each ]~~ audit ~~[ ; ]~~;

(h) 8. The members' supervisory board may adopt its own rules and procedures as considered necessary for the operation of the association provided these rules and procedures are not inconsistent with § 65.1-104.2 and this regulation.

§ 12. Advance contribution requirements and distribution of surplus funds.

~~A.1. A.~~ For the purpose of funding the liability of ~~[ an the ]~~ association~~[ , ]~~ the members shall make contributions to the association based on annual payrolls for all employees of each member, except for executive officers where the payroll is to be limited to a maximum of \$300 per week, using rates and stock or nonstock discounts as adopted by the board and approved by the Commission. The rates to be used are those in effect as of the inception of each association's fiscal year. A plan which allows for consideration of past experience in developing a factor to be applied to a member's contribution may be used provided this plan has been approved by the Commission.

Nothing contained herein shall be construed to prevent an association from filing with the Commission its own rates or a deviation from these rates or an alternative method of determining contributions which may be used upon approval by the Commission.

~~2. B.~~ At the effective date of the license of an association ~~[ and for each subsequent year of operation ]~~, at least 25% of the first year's ~~[ first year's ]~~ estimated annual contribution payable by each member of the association shall have been paid into a designated depository. The balance of the first year's contributions ~~[ first year's ]~~ annual ~~[ contribution contributions ]~~ shall be paid no later than the end of the ninth month of the association year ~~;~~ either in quarterly or monthly installments at the discretion of the board ~~.~~ ~~[ For each subsequent year of operation of the association, the payment schedule shall provide an advance payment of at least 15% of the estimated annual contribution with the balance payable not later than the end of the 10th month. ]~~ At no time shall the member's combined payments be less than the total earned estimated annual contribution due at that time.

For each subsequent year of operation of the association, the payment schedule shall provide for annual or periodic payments in advance in intervals no more frequent than once a month, at the discretion of the board.

~~B. C.~~ Any surplus assets (i.e. those assets in excess of the amount necessary to fulfill all obligations under the Act and this regulation ) accumulated within an association year may be declared refundable by the board. The board shall establish the plan and the dates for payment of these excess assets. Payment of this surplus shall not be made until approved by the Commission. ~~[ Surplus assets accumulated within an association year will be used exclusively for the benefit of those members belonging to the association during that association year. The accounting of the surplus for each association year will provide for a separate itemization of the surplus for each association year. The surplus assets of one association year shall not be used to offset the deficiencies of other association years. ]~~

However, the Commission may shall require ~~;~~ and shall

# State Corporation Commission

permit upon application of the association, that five percent 3.0% or less more of an association year's surplus association's earned contributions for each fiscal accounting period be allocated to a restricted surplus account at the end of that year contingency reserve. The restricted surplus contingency reserve is to be used at the direction of the association's board subject to the approval of the Commission. When the Commission is satisfied that the contingency reserve is adequate for the needs of the association, adjustments may be made by the Commission as necessary to the contingency reserve or to contributions to the contingency reserve to maintain it at an established amount.

## § 13. Indemnity agreement and power of attorney.

Every member of a group self-insurance association shall execute an indemnity agreement and power of attorney which shall set forth the rights, privileges and obligations of the member and the association and the powers and duties of the administrator. [ This The ] indemnity agreement and power of attorney shall be subject to the approval of the Commission and shall contain in substance the following provisions:

(1) 1. An agreement under which each member agrees to assume and discharge, jointly and severally, any liability under the Act of any and all employers party to such agreement [ and which provides that, in addition to the rights of the association, in the event of failure of the association to enforce such rights after reasonable notice to the association, the Commission shall have the right independently to enforce on behalf of the association the joint and several liability of its members under the Act and the liability of members for any unpaid contributions and assessments ];

(2) 2. Provisions requiring that the members' supervisory board designate and appoint an administrator empowered to accept service of process on behalf of the association and authorized to act for and bind the association and members in all transactions relating to or arising out of the operation of the association; and

(3) 3. Provisions for the right of substitution of the administrator and revocation of the power of attorney and rights thereunder.

[ Such All ] indemnity [ agreement agreements ] may also contain such other provisions not inconsistent with law or this regulation.

## § 14. Servicing of association.

A service agent for a licensed workers' compensation group self-insurance association shall apply and shall be subject to the approval of the Commission before entering into a contract with an association and shall satisfy the Commission that it has adequate facilities and competent

personnel to fulfill its obligations to the association and this regulation.

A service agent shall maintain a resident agent in this Commonwealth and that agent shall be authorized to act for the service agent on any and all matters covered by the Act, and rules and regulations of the Commission.

A service agent shall file with the Commission copies of all contracts entered into with the association as they relate to the services to be performed. These contracts shall provide for services necessary to fulfill the employer's obligations under the Act, and the rules and regulations of the Commission. In addition, any service contract or letter of intent must state that the servicing organization agrees to handle all claims incurred during the contract period to their conclusion without further remuneration unless approval to transfer them is obtained from the Commission prior to such transfer.

The service organization shall furnish a fidelity bond covering its employees, with the association as obligee, in an amount sufficient to protect all moneys placed in the claims fund. However, if the bond required of the administrator also covers the moneys in the claims fund, a separate bond shall not be required of the servicing organization with respect to the claims fund.

Upon satisfactory compliance with the above provisions, a certificate of approval as a recognized and authorized service agent shall be issued to the applicant. Failure to comply with any of the foregoing rules or any order of the Commission within the time prescribed shall be considered justification for withdrawing the certificate of approval. The Commission shall give 10 days' prior notice of such withdrawal. The notice shall be served personally, or by certified or registered mail, upon all interested parties setting forth the reasons for withdrawal and providing the service agent an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the service agent's certificate of approval is revoked this revocation shall become effective 30 days after issuance of the Commission's order or within such shorter or longer period as the Commission may consider necessary to protect the interest of the association, its members and their employees.

Each individual, partnership, or corporation approved to act as a service agent for an association shall file with the Commission an annual statement, in a form acceptable to the Commission, of its financial condition with the Commission within four months of the completion of its fiscal year.

## § 15. Termination of members of association.

No member of an association may be terminated unless at least 30 days written notice has been given to the member, the Commission, and the Industrial Commission of Virginia, except as provided in § 65.1-105.

# State Corporation Commission

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The association shall remain liable for all claims applicable to the period during which an employer was a member of an association, including the 30 day-period required for termination of membership or for a lesser period as provided by § 65.1-105.

## § 16. Revocation of self-insurance license.

The Commission may revoke an association's license if:

- ~~(a)~~ 1. The association no longer meets the standards required for the issuance of its license; or
- ~~(b)~~ 2. The association fails to comply with this regulation, the provisions of the Act or an order of the Commission.

The Commission shall give 10 days' prior notice of the proposed revocation to the association. The notice shall be served personally, or by certified or registered mail, upon all interested parties stating the reasons for the proposed revocation and providing the association an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the association's license is revoked, this revocation shall become effective 30 days after the Commission's order is issued.

## § 17. Penalties.

Penalty for failure to comply with this regulation ~~may be as provided in Section 16 of this regulation or as provided under the applicable provisions of Title 65.1 shall be as provided by § 12.1-13 of the Code of Virginia .~~

## § 18. Examination of association.

If the Commission considers it expedient for the protection of the interests of the [ ~~people~~ *citizens* ] of this Commonwealth, it may make or direct to be made a financial condition examination into the affairs of any association, or service agent licensed or approved in this Commonwealth.

The manner and frequency in which the examination of financial condition shall be conducted and the release of any reports of financial condition shall be as provided in [ ~~Article 3 (§ 38.1-174 et seq.) of Chapter 4 of Title 38.1 Article 4 (§ 38.2-1317 et seq.) of Chapter 13 of Title 38.2~~ ].

## § 19. Severability.

If any provisions of this regulation, or the application of it to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

# State Corporation Commission

permit upon application of the association, that five percent 3.0% or less more of an association year's surplus association's earned contributions for each fiscal accounting period be allocated to a restricted surplus account at the end of that year contingency reserve. The restricted surplus contingency reserve is to be used at the direction of the association's board subject to the approval of the Commission. When the Commission is satisfied that the contingency reserve is adequate for the needs of the association, adjustments may be made by the Commission as necessary to the contingency reserve or to contributions to the contingency reserve to maintain it at an established amount.

## § 13. Indemnity agreement and power of attorney.

Every member of a group self-insurance association shall execute an indemnity agreement and power of attorney which shall set forth the rights, privileges and obligations of the member and the association and the powers and duties of the administrator. [ This The ] indemnity agreement and power of attorney shall be subject to the approval of the Commission and shall contain in substance the following provisions:

(1) 1. An agreement under which each member agrees to assume and discharge, jointly and severally, any liability under the Act of any and all employers party to such agreement [ and which provides that, in addition to the rights of the association, in the event of failure of the association to enforce such rights after reasonable notice to the association, the Commission shall have the right independently to enforce on behalf of the association the joint and several liability of its members under the Act and the liability of members for any unpaid contributions and assessments ];

(2) 2. Provisions requiring that the members' supervisory board designate and appoint an administrator empowered to accept service of process on behalf of the association and authorized to act for and bind the association and members in all transactions relating to or arising out of the operation of the association; and

(3) 3. Provisions for the right of substitution of the administrator and revocation of the power of attorney and rights thereunder.

[ Such All ] indemnity [ agreement agreements ] may also contain such other provisions not inconsistent with law or this regulation.

## § 14. Servicing of association.

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personnel to fulfill its obligations to the association and this regulation.

A service agent shall maintain a resident agent in this Commonwealth and that agent shall be authorized to act for the service agent on any and all matters covered by the Act, and rules and regulations of the Commission.

A service agent shall file with the Commission copies of all contracts entered into with the association as they relate to the services to be performed. These contracts shall provide for services necessary to fulfill the employer's obligations under the Act, and the rules and regulations of the Commission. In addition, any service contract or letter of intent must state that the servicing organization agrees to handle all claims incurred during the contract period to their conclusion without further remuneration unless approval to transfer them is obtained from the Commission prior to such transfer.

The service organization shall furnish a fidelity bond covering its employees, with the association as obligee, in an amount sufficient to protect all moneys placed in the claims fund. However, if the bond required of the administrator also covers the moneys in the claims fund, a separate bond shall not be required of the servicing organization with respect to the claims fund.

Upon satisfactory compliance with the above provisions, a certificate of approval as a recognized and authorized service agent shall be issued to the applicant. Failure to comply with any of the foregoing rules or any order of the Commission within the time prescribed shall be considered justification for withdrawing the certificate of approval. The Commission shall give 10 days' prior notice of such withdrawal. The notice shall be served personally, or by certified or registered mail, upon all interested parties setting forth the reasons for withdrawal and providing the service agent an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the service agent's certificate of approval is revoked this revocation shall become effective 30 days after issuance of the Commission's order or within such shorter or longer period as the Commission may consider necessary to protect the interest of the association, its members and their employees.

Each individual, partnership, or corporation approved to act as a service agent for an association shall file with the Commission an annual statement, in a form acceptable to the Commission, of its financial condition with the Commission within four months of the completion of its fiscal year.

## § 15. Termination of members of association.

No member of an association may be terminated unless at least 30 days written notice has been given to the member, the Commission, and the Industrial Commission of Virginia, except as provided in § 65.1-105.



# State Corporation Commission

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The association shall remain liable for all claims applicable to the period during which an employer was a member of an association, including the 30 day-period required for termination of membership or for a lesser period as provided by § 65.1-105.

## § 16. Revocation of self-insurance license.

The Commission may revoke an association's license if:

- (a) 1. The association no longer meets the standards required for the issuance of its license; or
- (b) 2. The association fails to comply with this regulation, the provisions of the Act or an order of the Commission.

The Commission shall give 10 days' prior notice of the proposed revocation to the association. The notice shall be served personally, or by certified or registered mail, upon all interested parties stating the reasons for the proposed revocation and providing the association an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the association's license is revoked, this revocation shall become effective 30 days after the Commission's order is issued.

## § 17. Penalties.

Penalty for failure to comply with this regulation ~~may be as provided in Section 16 of this regulation or as provided under the applicable provisions of Title 65.1~~ shall be as provided by § 12.1-13 of the Code of Virginia .

## § 18. Examination of association.

If the Commission considers it expedient for the protection of the interests of the [ ~~people~~ citizens ] of this Commonwealth, it may make or direct to be made a financial condition examination into the affairs of any association, or service agent licensed or approved in this Commonwealth.

The manner and frequency in which the examination of financial condition shall be conducted and the release of any reports of financial condition shall be as provided in [ ~~Article 3 (§ 38.1-174 et seq.) of Chapter 4 of Title 38.1~~ Article 4 (§ 38.2-1317 et seq.) of Chapter 13 of Title 38.2 ].

## § 19. Severability.

If any provisions of this regulation, or the application of it to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

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# GOVERNOR

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## OFFICE OF THE GOVERNOR

### EXECUTIVE ORDER NUMBER 57 (88)

#### CONTINUING THE COMMISSION TO STUDY HISTORIC PRESERVATION

By virtue of the authority vested in me as Governor by Section 2.1-51.36 of the Code of Virginia, and subject always to my continuing and ultimate authority to act in such matters, I hereby continue Executive Order Number 39 (87), relating to the Commission to Study Historic Preservation.

Funds and staff support necessary for the conduct of the Commission's responsibilities during the term of its existence shall be provided by the Department of Conservation and Historic Resources. The Department's expenditures for this purpose are estimated at \$10,000. An estimated 200 hours of staff support will be required to assist the Commission.

This Executive Order will become effective on April 11, 1988 and will remain in full force and effect until April 10, 1989, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 10th day of April, 1988.

/s/ Gerald L. Baliles  
Governor

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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## DEPARTMENT FOR THE AGING

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Area Agencies on Aging**. The purpose of the proposed regulation is to set forth the methods for (i) designating a planning and service area and an area agency on aging and (ii) suspending or terminating the designation of an area agency on aging.

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

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Area Plans for Aging Services**. The purpose of the proposed regulation is to regulate the process by which an Area Agency on Aging develops and implements its Area Plan for Aging Services.

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

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Financial Management Policies Applicable to Area Agencies on Aging**. The purpose of the proposed regulation is to provide policies and standards for an Area Agency on Aging in the administration of federal and state grants to provide supportive and nutrition services to older persons.

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

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Hearings**. The purpose of the proposed regulation is to describe the hearing procedures of the Department for the Aging.

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

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Long-Term Care Ombudsman Program**. The purpose of the proposed regulations is to describe the policies by which the Department for the Aging establishes and operates the Office of the State Long-Term Care Ombudsman and designates and supervises an area or local ombudsman entity.

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

Written comments may be submitted until July 20, 1988.

**Contact:** J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

## 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 promulgating regulations entitled: **VR 120-100. Regulations for the Inspection of Motor Vehicle Emissions.** The purpose of the proposed regulation is to ensure that the authorized emissions inspection stations perform the inspections in such a manner that motor vehicles subject to the emissions standards are in compliance. A public meeting will be held on June 15, 1988, at 7 p.m. at the George Mason University Metro Campus Professional Center, Room 318, 3401 North Fairfax Drive, Arlington, Virginia 22201, to receive input on the development of the proposed regulation.

Statutory Authority: § 46.1-326.6 of the Code of Virginia.

Written comments may be submitted until June 15, 1988, to Director of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Virginia 23240.

**Contact:** M. E. Lester, Program and Policy Analyst, Division of Program Development, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564 or SCATS 786-7564

## DEPARTMENT OF CORRECTIONS (STATE BOARD OF) Division of Youth Services

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections, Division of Youth Services intends to consider amending regulations entitled: **Rules and Regulations Governing Applications for Virginia Delinquency Prevention and Youth Development Act Grants.** The purpose of the proposed regulation is to provide regulations governing applications for Virginia Delinquency Prevention and Youth Development Act grants with respect to eligibility, developmental process, criteria for application review and funding, and the review process.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 1, 1988.

**Contact:** Thomas J. Northern, III, Delinquency Prevention Specialist, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 367-1633 or SCATS 367-1633

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Education intends to consider amending regulations entitled: **Classification of Expenditure.** The purpose of the proposed regulation is to revise and reduce the number of existing 13 classifications of expenditures to five. As a result of the revised classification of expenditures, it will be necessary to modify the expenditures on the Annual School Report. This is in accordance with § 22.1-115 of the Code of Virginia which requires that the State Board of Education, in conjunction with the Auditor of Public Accounts, establish a modern system of accounting for all school divisions.

Statutory Authority: §§ 22.1-16 and 22.1-92 of the Code of Virginia.

Written comments may be submitted until July 22, 1988.

**Contact:** Robert L. Aylor, Director of Accounting and Finance, Department of Education, P. O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2040 or SCATS 225-2040

## DEPARTMENT OF HEALTH (STATE BOARD OF) Division of Licensure and Certification

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Rules and Regulations for the Licensure of Nursing Homes in Virginia.** The purpose of the proposed action is to (i) consider revisions required to avoid conflicts with federal regulations; (ii) reorganize the regulations into logical subject topics; and (iii) clarify language.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until June 15, 1988, to Mary V. Francis, Director, Division of Licensure and Certification, Department of Health, James Madison Building, 109 Governor Street, Room 1013, Richmond, Virginia 23219, telephone (804) 786-2081.

**Contact:** R. W. Harding, Assistant Director, Long Term Care, Division of Licensure and Certification, Department of Health, 109 Governor St., James Madison Bldg., Room 1013, Richmond, Va. 23219, telephone (804) 225-3733 or SCATS 225-3733

# General Notices/Errata

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## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-1. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations/1985 Edition.** The purpose of the proposed action is to allow for comments from the general public prior to the completion of a final draft of proposed regulations.

Statutory Authority: § 9-6.14:7 of the Code of Virginia.

Written comments may be submitted until June 20, 1988.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, BRS, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752 or SCATS 786-4752

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987 Edition.** The purpose of the proposed action is to include regulations for the handling of explosives.

Statutory Authority: §§ 27-72 and 27-97 of the Code of Virginia.

Written comment may be submitted until June 20, 1988.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, BRS, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752 or SCATS 786-4752

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I New Construction Code/1987 Edition.** The purpose of the proposed action is to (i) update the barrier-free provisions for the physically handicapped and aged; (ii) require building security measures; (iii) provide adequate restroom facilities for women at places of public assembly; and (iv) restrict the type of construction of two-hour fire separation walls. Sections 512, 908, 910, Table P-1202.1 and the addition of a new section will be under consideration.

Statutory Authority: §§ 36-98 and 36-99 of the Code of

Virginia.

Written comments may be submitted until June 20, 1988.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, BRS, Department of Housing and Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752 or SCATS 786-4752

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

### 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 promulgating regulations entitled: **Provider Appeals of Surveillance and Utilization Review (SURS) Audits.** The purpose of the proposed action is to promulgate, in regulatory form, this provider appeals process.

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

Written comments may be submitted until 4:30 p.m., May 13, 1988.

**Contact:** David Austin, Manager, Postpayment Review, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-5438

## VIRGINIA STATE BOARD OF NURSING

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Board of Nursing intends to consider promulgating and amending regulations entitled: **VR 495-01-1. Board of Nursing Regulations.** The purpose of the proposed regulation is to (i) promulgate regulations for the direction or supervision of licensed practical nurses as required by § 54-367.2 of the Code of Virginia as amended by the General Assembly, 1988; (ii) promulgate a regulation to require licensees to report change of address; and (iii) amend regulations related to approval of nursing education programs for clarity and enforceability.

Statutory Authority: §§ 54-367.2 and 54-367.11 of the Code of Virginia.

Written comments may be submitted until May 20, 1988.

**Contact:** Corinne F. Dorsey, Executive Director, Virginia State Board of Nursing, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909 or SCATS 662-9909

STATE BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Virginia Board of Pharmacy.** The purpose of the proposed actions are to (i) consider increases in licensure fees to increase the revenue to provide necessary funds for licensure, inspection and enforcement requirements; (ii) consider the necessity for promulgation of regulations dealing with an examination on drug laws for applicants for licensure by endorsement; in response to HB 515 passed during the 1988 Session of the General Assembly which amends § 54-526.26 of the Code of Virginia; and (iii) consider the promulgation of licensure and other requirements for practitioners of the healing arts who engage in the selling or dispensing of drugs in response to SB 425 passed during the 1988 Session of the General Session which amends § 54-317 of the Code of Virginia.

Statutory Authority: §§ 54-524.16 and 54-524.17 of the Code of Virginia.

Written comments may be submitted until May 27, 1988.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

BOARD OF COMMISSIONERS TO EXAMINE PILOTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Commissioners to Examine Pilots intends to consider promulgating, amending and repealing regulations entitled: **Regulations Governing Pilots.** The purpose of the proposed action is to conduct an informational proceeding thereby soliciting public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's Public Participation Guidelines and to develop revisions to conform to Senate Bill No. 238 which becomes law on January 1, 1989.

Statutory Authority: § 54-529 of the Code of Virginia.

Written comments may be submitted until June 9, 1988.

Contact: Robert T. Hasler, Jr., President, Board of Commissioners to Examine Pilots, P. O. Box 359, Norfolk, Va. 23501, telephone (804) 625-3641

STATE BOARD OF SOCIAL SERVICES AND CHILD DAY-CARE COUNCIL JOINTLY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the State Board of Social Services and Child Day-Care Council jointly intend to consider promulgating and amending regulations entitled: **General Procedures and Information for Licensure.** The purpose of the proposed action is to promulgate and revise the General Procedures and Information for Licensure after receiving input from the public. The Child Day-Care Council and the State Board of Social Services will jointly promulgate and amend the regulations.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until May 26, 1988.

Contact: Arlene Kapser, Program Development Supervisor, Department of Social Services, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9025 or SCATS 662-9025

DEPARTMENT OF TRANSPORTATION  
(COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Transportation intends to consider promulgating regulations entitled: **State Noise Abatement Policy.** The purpose of the proposed regulation is to implement a statewide noise abatement program for all new federal and nonfederal highway projects.

Statutory Authority: § 33.1-12 of the Code of Virginia.

Written comments may be submitted until May 27, 1988, to J.S. Hodge, Chief Engineer, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219.

Contact: A.C. Anday, Coordinator, Air, Noise & Energy, Department of Transportation, 1401 E. Broad St., Room 1111, Richmond, Va. 23219, telephone (804) 786-6556 or SCATS 786-6556

GENERAL NOTICES

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice to the Public

Pursuant to its public participation guidelines contained in

# General Notices/Errata

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§ 5.1 of VR 125-01-1, the board intends to consider the amendment or adoption of regulations as set forth below and will conduct a public meeting on June 2, 1988, at 10 a.m. in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia to receive comments from the public.

**1. Section 1.16 of 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.**

a. **Subject of Proposal** - Amend regulation to provide that acceptance of an offer in compromise is an admission of guilt by the licensee.

b. **Entities Affected** - Manufacturers, wholesalers, retailers and other permittees involved in administrative hearings.

c. **Purpose of Proposal** - To clarify that board acceptance of an offer in compromise is an admission of guilt by the licensee, unless otherwise specified by the board.

d. **Issues Involved** - Should an offer in compromise be considered an admission of guilt upon its acceptance by the board?

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-98.10, 4-98.14, 4-103 of the Code of Virginia.

**2. Section 3.5 of VR 125-01-1 - Discovery, prehearing procedures and production at hearings.**

a. **Subject of Proposal** - To eliminate the reference to good cause in the definition of "commencement" of proceedings under the Wine and Beer Franchise Acts and establish a uniform date for the commencement of all proceedings under the Acts.

b. **Entities Involved** - Manufacturers, wholesalers, retailers and other permittees involved in administrative hearings.

c. **Purpose of Proposal** - To establish a uniform date for the commencement of all proceedings under the Acts.

d. **Issues Involved** - Should discovery begin when the board receives a franchise complaint?

e. **Applicable Laws or Regulations** - §§ 4-118.11 and 4-118.31 of the Code of Virginia.

f. Proposed by the Virginia Beer Wholesalers Association, Inc.

**3. Section 1 of VR 125-01-2 - Advertising generally, cooperative advertising; federal laws; beverages and**

**cider; exceptions; restrictions.**

a. **Subject of Proposal** - Advertising sales or reduced prices on alcoholic beverages.

b. **Entities Affected** - Manufacturers, wholesalers, retail licensees, newspapers and radio stations.

c. **Purpose of Proposal** - To clarify that sales or reduced prices on alcoholic beverages may be advertised in the print media and on the radio only if advertised with nonalcoholic sales merchandise, and the alcoholic beverage ads must conform in size, prominence and content to the ads of the nonalcoholic merchandise.

d. **Issues Involved** - This amendment is of a "housekeeping" nature to help clarify our regulation.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

**4. Section 2 of VR 125-01-2 - Advertising; interior; retail licensees; show windows.**

a. **Subject of Proposal** - Amend regulation to include sponsorship of a cultural event.

b. **Entities Affected** - Retail licensees.

c. **Purpose of Proposal** - To comply with regulatory changes.

d. **Issues Involved** - This amendment is of a "housekeeping" nature to make sure our regulations reflect all current changes.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w) and 4-98.14 of the Code of Virginia, VR 125-01-2 § 10.

**5. Section 3 of VR 125-01-2 - Advertising; exterior; signs; trucks; uniforms.**

a. **Subject of Proposal** - To allow manufacturers and wholesalers, including wineries and farm wineries, to promote responsible drinking through outdoor alcoholic beverage advertising.

b. **Entities Affected** - Manufacturers, wholesalers, including wineries and farm wineries.

c. **Purpose of Proposal** - To promote responsible drinking.

d. **Issues Involved** - Should manufacturers and wholesalers use billboards which display their corporate name and logo to promote responsible drinking?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed by Anheuser-Busch.

**6. Section 3 of VR 125-01-2 - Advertising; exterior; signs; trucks; uniforms.**

a. **Subject of Proposal** - Amend regulation to limit the dimension of directional signs to 64 square feet rather than to eight feet in height or width.

b. **Entities Affected** - Manufacturers, wholesalers and farm wineries.

c. **Purpose of Proposal** - To eliminate requests for special permits for signs which do not conform to the dimension of eight feet in height or width but whose square footage is less than the eight foot dimension.

d. **Issues Involved** - Should the dimensions of directional signs be limited to 64 square feet?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

**7. Section 4 of VR 125-01-2 - Advertising, newspaper, magazines, radio, television, trade publications, etc.**

a. **Subject of Proposal** - To prohibit advertising of beer in student publications unless in reference to a dining establishment.

b. **Entities Affected** - Retail licensees, universities, colleges, student publications.

c. **Purpose of Proposal** - To prohibit beer advertisements in college student publications unless in reference to a dining establishment.

d. **Issues Involved** - Wine and mixed beverage advertisements in college student publications may only be made in reference to a dining establishment. Should beer advertisements in college student publications only be allowed when made in reference to a dining establishment?

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-79(a), 4-98.10(w) and 4-98.14 of the Code of Virginia.

**8. Section 4 of VR 125-01-2 - Advertising; newspaper, magazines, radio, television, trade publications, etc.**

a. **Subject of Proposal** - To delete the word "bar" as a prohibited term which currently may not appear in the print or electronic media.

b. **Entities Affected** - Retail licensees.

c. **Purpose of Proposal** - To delete the word "bar" as a prohibited term.

d. **Issues Involved** - This amendment is of a "housekeeping" nature to clarify agency interpretation of this regulation.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.114 of the Code of Virginia.

**9. Section 5 of VR 125-01-2 - Advertising; newspapers and magazines; programs; distilled spirits.**

a. **Subject of Proposal** - Amend regulation by clarifying that distilled spirits advertising may appear in printed programs relating to conservation and environmental programs, professional, semi-professional, or amateur athletic and sporting events and events of a charitable or cultural nature.

b. **Entities Affected** - Distillers, bottlers, importers and wholesalers.

c. **Purpose of Proposal** - To add the word "printed" to programs to clarify that distilled spirits advertising may appear in conservation and environmental programs, professional, semi-professional, or amateur athletic and sporting events and events of a charitable or cultural nature.

d. **Issues Involved** - This amendment is of a "housekeeping" nature to clarify agency interpretation of this regulation.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a) and 4-69 of the Code of Virginia.

**10. Section 6 of VR 125-01-2 - Advertising; novelties and specialties.**

a. **Subject of Proposal** - Amend regulation to include sponsorship of a cultural event.

b. **Entities Affected** - Manufacturers, wholesalers.

c. **Purpose of Proposal** - To comply with regulatory changes.

d. **Issues Involved** - This amendment is of a "housekeeping" nature to make sure our regulations reflect the current changes.

e. **Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia, VR 125-01-2 § 10.

**11. Section 9 of VR 125-01-2 - Advertising; coupons.**



# General Notices/Errata

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**a. Subject of Proposal** - To allow wine refund coupon pads to be placed in a designated area of a retail establishment rather than limiting their placement to just cut case cards.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - In most retail store operations, there is an area designated in the front of the store where coupons are made available to customers. This amendment would allow for the placement of wine refund coupon pads in those areas.

**d. Issues Involved** - Should refund coupons be permitted on rebate boards?

**e. Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

**f.** Proposed by the Virginia Wine Wholesalers Association, Inc.

**12. Section 10 of VR 125-01-2 - Advertising; sponsorship of public events; restrictions and conditions.**

**a. Subject of Proposal** - To allow sponsorship of collegiate events (including sporting and nonsporting events) by distilleries, wineries and breweries when these functions are attended by alumni and the general public.

**b. Entities Affected** - Manufacturers, wholesalers, universities and colleges.

**c. Purpose of Proposal** - To provide financial support for collegiate events attended by alumni and the general public.

**d. Issues Involved** - (1) Will distillery, winery or brewery sponsorship of collegiate events attended by alumni and the general public encourage underage college students to drink? (2) Will lack of sponsorship by distilleries, wineries or breweries for college events attended by alumni and the general public cause any financial hardship?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a) and 4-69 of the Code of Virginia.

**f.** Proposed by the Virginia Beer Wholesalers Association, Inc.

**13. Section 10 of VR 125-01-2 - Advertising; sponsorship of public events; restrictions and conditions.**

**a. Subject of Proposal** - To allow sponsorship of

intercollegiate athletic events by distilleries, wineries and breweries.

**b. Entities Affected** - Manufacturers, wholesalers, universities and colleges.

**c. Purpose of Proposal** - To provide financial support to collegiate athletic programs.

**d. Issues Involved** - (1) Will financial sponsorship of intercollegiate events by distilleries, wineries and breweries encourage drinking by those under the age of 21? (2) Will lack of financial sponsorship by distilleries, wineries and breweries cause undue hardship to intercollegiate athletic events and their athletic associations?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a) and 4-69 of the Code of Virginia.

**f.** Proposed by the Central Intercollegiate Athletic Association and Virginia Commonwealth University.

**14. Section 8 of VR 125-01-3 - Solicitation of mixed beverage licensees generally; disqualifying factors.**

**a. Subject of Proposal** - To amend regulation to authorize and control the solicitation of mixed beverage licensees.

**b. Entities Affected** - Manufacturers, wholesalers, brokers, retail licensees.

**c. Purpose of Proposal** - To facilitate amendment of this regulation should HB 843 become law.

**d. Issues Involved** - To determine the proper control of and limitations on the solicitation of mixed beverage licensees.

**e. Applicable Laws or Regulations** - §§ 4-98.14 and 4-98.16 of the Code of Virginia.

**15. Section 9 of VR 125-01-3 - Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To eliminate cut case card dimensions.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - Paper point-of-sale is a needed vehicle in terms of explaining wine products to the consuming public. Through this change, Virginia would be in a position to provide information that is presently being provided in numerous other states.

**d. Issues Involved** - Should there be any limitations on the dimensions of cut case cards?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**f.** Proposed by the Virginia Wine Wholesalers Association, Inc., Anheuser-Busch, and Adolph Coors Company.

**16. Section 9 of VR 125-01-3 - Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To clarify that table tents may contain a listing of four wines and four beers.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To clarify that table tents may list a total of four wines and four beers.

**d. Issues Involved** - This amendment clarifies the Board's interpretation that a table tent may contain a total of four wines and four beers.

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**17. Section 9 of VR 125-01-3 - Inducement to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To eliminate the requirement that cut case cards be supported by or affixed to, and be an integral part of, the case display.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - Paper point-of-sale is a needed vehicle in terms of explaining wine products to the consuming public. Through this change, Virginia would be in a position to provide information that is presently being provided in numerous other states.

**d. Issues Involved** - Should retail licensee establishments be permitted to display cut case cards in any area of their stores?

**e. Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**f.** Proposed by the Virginia Wine Wholesalers Association, Inc., Anheuser-Busch, and Adolph Coors Company.

**18. Section 9 of VR 125-01-3 - Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.**

**a. Subject of Proposal** - To permit the use of pole toppers for display purposes only and to allow wholesalers to mark or affix retail prices on pole toppers.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To permit the use of pole toppers for display purposes only and to allow wholesalers to mark or affix retail prices on pole toppers.

**d. Issues Involved** - Should pole toppers be permitted if an integral part of the case display?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-69.2, 4-79(f) and (h) and 4-98.14 of the Code of Virginia.

**f.** Proposed by the Virginia Beer Wholesalers Association, Inc.

**19. Section 3 of VR 125-01-4 - Wine Containers; sizes and types; on- and off-premises limitations; cooler dispensers; novel containers; carafes and decanters.**

**a. Subject of Proposal** - To permit wine to be sold in containers smaller than 6.3 ounces.

**b. Entities Affected** - Manufacturers, wholesalers, retail licensees, and importers.

**c. Purpose of Proposal** - To not preclude alcoholic beverages and beverages whose metric sizes do not conform to our regulation.

**d. Issues Involved** - Should foreign alcoholic beverages or beverages be precluded from sale in the state because of their size?

**e. Applicable Laws or Regulations** - §§ 4-7(h) and (l), 4-11(a) and 4-98.10 of the Code of Virginia.

**20. Section 2 of VR 125-01-5 - Determination of Legal Age of Purchasers.**

**a. Subject of Proposal** - To clarify that identification issued by a state university or college is not acceptable evidence of legal age.

**b. Entities Affected** - Retail licensees, state

# General Notices/Errata

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universities and colleges.

**c. Purpose of Proposal** - To comply with the Board's interpretation of this section.

**d. Issues Involved** - Should state university and college identification cards be acceptable evidence of legal age because they are a state government agency when private and out-of-state university and college identification cards are not acceptable evidence of legal age?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-62 and 4-98.14 and 4-103(b) of the Code of Virginia.

**21. Section 10 of VR 125-01-5 - Definitions and qualifications for retail off-premises wine and beer licenses and off-premises beer licenses; exceptions; further conditions; temporary licenses.**

**a. Subject of Proposal** - To make all sales and inventory requirements now applicable to off-premises wine licensees equal to those presently required for off-premises beer retail licensees.

**b. Entities Affected** - Retail licensees.

**c. Purpose of Proposal** - Equality between retail wine and beer licensees.

**d. Issues Involved** - Should the qualifications for off-premises wine licensees be lowered to that of off-premises beer licensees?

**e. Applicable Laws or Regulations** - §§ 4-7(l), 4-11(a), 4-25 and 4-31(a) of the Code of Virginia.

**f. Proposed by the Virginia Wine Wholesalers Association, Inc.**

**22. Section 13 of VR 125-01-5 - Clubs; applications; qualifications; reciprocal arrangements; changes; financial statements.**

**a. Subject of Proposal** - To define the terms private club, nonprofit club and profit club as it relates to the mixed beverage laws.

**b. Entities Affected** - Clubs.

**c. Purpose of Proposal** - To define the terms private club, nonprofit, and profit club as it relates to the mixed beverage laws.

**d. Issues Involved** - Under what conditions should the board issue a mixed beverage license to a restaurant located on the premises of a private club?

**e. Applicable Laws or Regulations** - §§ 4-2(6),

4-7(l), 4-11(a), 4-61.1, 4-98.14 and 4-118.1 of the Code of Virginia.

**23. Section 2 of VR 125-01-6 - Wines; purchase orders generally; wholesale wine distributors.**

**a. Subject of Proposal** - To permit the peddling of wine coolers.

**b. Entities Affected** - Manufacturers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To allow the peddling of wine coolers.

**d. Issues Involved** - Should wholesalers be allowed to peddle wine coolers?

**e. Applicable Laws or Regulations** - §§ 4-7(a), (b) and (l), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

**f. Proposed by the Virginia Beer Wholesalers Association, Inc.**

**24. Section 7 of VR 125-01-6 - Adopt a new section prohibiting the sale and delivery by wholesalers between 12 midnight and 5 a.m. and to transfer and incorporate § 1 of VR 125-01-3 into a new § 7.**

**a. Subject of Proposal** - To prohibit the sale and delivery of beer and wine by wholesalers between 12 midnight and 5 a.m. and to transfer § 1 of VR 125-01-3 (Sunday deliveries by wholesalers, prohibited exceptions) into a new § 7.

**b. Entities Affected** - Wine and beer wholesalers and retail licensees.

**c. Purpose of Proposal** - Until May 1987 the Board had interpreted VR 125-01-5, § 3 - Restricted Hours to apply to wholesale licensees. This new regulation would prohibit wholesalers' deliveries between midnight and 5 a.m. The wholesalers are very concerned about the safety of making deliveries during midnight and 5 a.m.

**d. Issues Involved** - (1) Will this protect wholesalers from being forced to make deliveries between 12 midnight and 5 a.m.? (2) How will this affect retail licensees?

**e. Applicable Laws or Regulations** - §§ 4-7(b) and (l), 4-11(a), 4-36, 4-72.1, 4-84, 4-103(b), 4-114.1 and 4-118.2 of the Code of Virginia.

**f. Proposed by Virginia Beer Wholesalers Association and the Virginia Wine Wholesalers Associations, Inc.**

**25. Section 8 of VR 125-01-6 - Solicitor-salesman; records; employment restrictions; suspension or**

## revocation of permits for mixed beverage licensees.

**a. Subject of Proposal** - To regulate and control the solicitation of mixed beverage licensees.

**b. Entities Affected** - Manufacturers, wholesalers, and retail licensees.

**c. Purpose of Proposal** - To facilitate adoption of a new regulation should HB 843 become law, including but not limited to record keeping age limitations, etc.

**d. Issues Involved** - To determine the proper control and limitations on the solicitation of mixed beverage licensees.

**e. Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-26, 4-98.14 and 4-98.16 of the Code of Virginia.

## 26. Section 8 of VR 125-01-6 - Adopt a new section to allow distillery representatives to conduct training seminars and have the same privileges as wine representatives when soliciting mixed beverage licensees.

**a. Subject of Proposal** - To allow distillery representatives to conduct training seminars and have the same privileges as wine representatives when soliciting mixed beverage licensees.

**b. Entities Affected** - Manufacturers, brokers, wholesalers and retail licensees.

**c. Purpose of Proposal** - What activities will be permitted by distillers' representatives when calling on mixed beverage licensees?

**d. Applicable Laws or Regulations** - §§ 4-98.14 and 4-98.16 of the Code of Virginia.

**e. Proposed by** Jim Rogers, President of Associated Distributors.

## 27. Section 8 of VR 125-01-6 - Adopt new sections to comply with and regulate the solicitation of mixed beverage licensees by distillers' representatives.

**a. Subject of Proposal** - To prohibit any person holding a distilled spirits permit from (1) providing cash discounts or cash rebates, gifts, entertainment or other forms of gratuity and equipment to any mixed beverage licensee; (2) from purchasing or delivering distilled spirits or other alcoholic beverages as inducements to mixed beverage licensees; and (3) from soliciting any mixed beverage licensee for wine, beer or other merchandise simultaneously with the solicitation of distilled spirits.

Persons holding distilled spirits permits may (1) distribute directly and indirectly written educational material; (2) provide samples to mixed beverage licensees so long as the sample remains the property of the distilled spirits representative and the sample cannot be left with mixed beverage licensees; and (3) promote distilled spirits through Trade Shows and through organizations of distilled spirits representatives, either separately or in conjunction with other industry organizations.

**b. Entities Affected** - Manufacturers, brokers, wholesalers and retail licensees.

**c. Purpose of Proposal** - To prohibit concurrent solicitation of wine, beer and other merchandise with distilled spirits in order that these other products are not used as inducements to purchase distilled spirits.

**d. Issues Involved** - Passage of House Bill 843 requires the adoption of regulations governing solicitation by representatives of manufacturers of distilled spirits.

**e. Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-26, 4-98.14 and 4-98.16 of the Code of Virginia.

**f. Proposed by** Virginia Distilled Spirits Representatives Association.

## 28. Section 18 of VR 125-01-7 - Adopt a new section to allow wine wholesalers to participate in wine tastings.

**a. Subject of Proposal** - To allow wine wholesalers to participate with specialty shop licensees in wine tastings involving the public.

**b. Entities Affected** - Manufacturers, wholesalers and specialty shop licensees.

**c. Purpose of Proposal** - Most wine wholesalers are in a position to provide abundant information to the consuming public with regard to wine. One avenue for providing this information is through a tasting conducted by a retail licensee. This new regulation would allow for greater participation by wholesalers in that process and thus allow for better public understanding of the various types and brands of wines on the market.

**d. Issues Involved** - Should wine wholesalers be allowed to participate with specialty shop licensees in wine tastings involving the public?

**e. Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-44, 4-98.14, 4-98.16 and 4-103(b) of the Code of Virginia.

# General Notices/Errata

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f. Proposed by the Virginia Wine Wholesalers Association, Inc.

## 29. Sections 1-18, etc. of VR 125-01-8 - Beer and Beverage Excise Tax.

a. **Subject of Proposal** - Adopt regulations to comply with new §§ 4-127 through 4-145 of the Code of Virginia authorizing the ABC Board to collect beer and beverage excise taxes.

b. **Entities Affected** - Manufacturers, wholesalers, bottlers and retailers.

c. **Purpose of Proposal** - To comply with House Bill 496, effective July 1, 1988, which moves provisions relating to beer and beverage excise taxes from Title 58.1 to Title 4.

d. **Issues Involved** - The adoption of new regulations is necessitated by the passage of House Bill 496.

e. **Applicable Laws or Regulations** - §§ 4-7(a), 4-11(a), 4-44, 4-65, 4-66, 4-99, 4-127 through 4-145 of the Code of Virginia, and regulations adopted by the Virginia Department of Taxation relating to beer and beverage excise taxes.

30. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(i), 4-11(a), 4-98.14, 4-103(b), 4-6.14, and 9-6.14, and 9-6.4:1 et seq. of Title 9 of the Code of Virginia.

31. The board requests that all persons interested in the above described subjects please submit comments in writing by 10 a.m. June 2, 1988 to the undersigned, P. O. Box 27491, Richmond, Virginia 23261 or attend the public meeting scheduled below.

32. The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia at 10 a.m. on June 2, 1988.

33. Regarding the proposals as set forth above, all references to existing regulations that may be the subject of amendment or repeal, all references to proposed numbers for new regulations or to applicable laws or regulations are for purposes of information and guidance only, and are not to be considered as the only regulations or laws that may be involved or affected when developing draft language to carry-out the purposes of any proposal. This notice is designed, primarily, to set forth the subject matter and objectives of each proposal. In developing draft language, it may be necessary to amend or repeal a number of existing regulations and or adopt new regulations as may be deemed necessary by the board, and the references set forth above are not intended to be all inclusive.

34. Contact the undersigned, if you have questions, at the above address or by phone at (804) 367-0616.

ALCOHOLIC BEVERAGE CONTROL BOARD

/s/ Robert N. Swinson  
Secretary

## NOTICES 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: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01  
NOTICE OF COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE OF MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08  
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the 1987 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

## ERRATA

### VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Title of Regulation: VR 400-01-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

Publication: VA.R. 4:14 1486-1505 April 11, 1988

Correction to the Final Regulation:

Page 1495, the dollar amount of "\$35,000" for Norfolk-Virginia Beach-Newport News MSA under the column titled "Existing" should be "\$35,800."

Page 1495, the dollar amount of "\$32,200" for Spotsylvania County under the column titled "New Construction" should be "\$32,700."

# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## VIRGINIA CODE COMMISSION

## EXECUTIVE

### VIRGINIA AGRICULTURAL COUNCIL

**May 16, 1988 - 9 a.m. - Open Meeting**  
Holiday Inn - Airport, 5203 Williamsburg Road, Sandston, Virginia

A meeting to (i) review progress reports on approved funded research projects; (ii) hear any new project proposals which are properly supported by the Board of Directors of a commodity group; and (iii) any other business that may come before the members of the council.

**Contact:** Henry H. Budd, Assistant Secretary, Washington Bldg., 1100 Bank St., Room 203, Richmond, Va. 23219, telephone (804) 786-2373

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Winegrowers Advisory Board

† **May 23, 1988 - 10 a.m. - Open Meeting**  
Boar's Head Sports Club, Charlottesville, Virginia. ☒

Standard meeting; will review project proposals.

† **July 11, 1988 - 10 a.m. - Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

Annual meeting and review of project proposals.

**Contact:** Annette C. Ringwood, Secretary to Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, Wine Marketing Specialist, 1100 Bank St., Product Promotion, Room 703, Richmond, Va. 23219, telephone (804) 786-0481

### STATE AIR POLLUTION CONTROL BOARD

† **May 26, 1988 - 6:30 p.m. - Open Meeting**  
† **May 26, 1988 - 7 p.m. - Public Hearing**  
Central School, Central Road, Lexington, Virginia. ☒

A meeting to hear public testimony regarding a proposed modernization at Barger Quarry in Rockbridge County near Lexington, Virginia.

**Contact:** Don Shepherd, Regional Director, State Air Pollution Control Board, 5338 Peters Creek Rd., Roanoke, Va. 24019, telephone (703) 982-7328

### STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

**May 20, 1988 - 9 a.m. - Open Meeting**  
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) approve minutes of December 10, 1987; (ii) review enforcement cases; (iii) review correspondence; and (iv) consider fee revisions.

#### Virginia State Board of Certified Landscape Architects

† **May 20, 1988 - 8:30 a.m. - Open Meeting**  
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review correspondence; and (ii) review policy for examination review.

#### Virginia State Board of Land Surveyors

**May 19, 1988 - 1 p.m. - Open Meeting**  
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to approve minutes of the February 5, 1988 meeting and review applications.

**Contact:** Bonnie S. Salzman, Assistant Director, 3600 W.

Broad St., Richmond, Va. 23230, telephone (804) 367-8506, toll-free 1-800-552-3016 or SCATS 367-8506

## ARLINGTON COUNTY/CITY OF FALLS CHURCH LOCAL EMERGENCY PLANNING COMMITTEE

† **May 26, 1988 - 7:30 p.m.** – Open Meeting  
Arlington County Court House, 1400 North Courthouse Road, Room 202, Arlington, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to review and discuss alteration of existing comprehensive emergency plan to meet the requirements of SARA, Title III and other business.

**Contact:** Thomas M. Hawkins, Fire Chief, 1020 N. Hudson St., Arlington, Va. 22201-2186, telephone (703) 558-2485

## BEDFORD COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† **May 25, 1988 - 7:30 p.m.** – Open Meeting  
Courthouse, Room B-105 (Board of Supervisors), Bedford, Virginia. ☒

A meeting to consider (i) report of subcommittees; (ii) staff report; and (iii) reappraisal of goals.

**Contact:** John P. Tansey, Chairman, Courthouse, Room B-105, Bedford, Va., telephone (703) 586-0179

## LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

**May 19, 1988 - 5:30 p.m.** – Open Meeting  
**June 2, 1988 - 5:30 p.m.** – Open Meeting  
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 303, Chesterfield, Virginia. ☒

A meeting to review contingency plans of local businesses. (To meet requirements of SARA 1986.)

† **June 16, 1988 - 5:30 p.m.** – Open Meeting  
† **July 7, 1988 - 5:30 p.m.** – Open Meeting  
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☒

To meet requirements of Superfund Amendment and Reauthorization Act of 1986.

**Contact:** Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P. O. Box 40, Chesterfield, Va. 23832, telephone (804) 748-1236

## CHILD DAY-CARE COUNCIL

**May 16, 1988** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-01-01. Public Participation Guidelines.** The purpose of the proposed regulation is to set guidelines for obtaining public participation prior to and during the drafting, promulgation and final adoption process of regulations applicable to child care centers.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until May 16, 1988.

**Contact:** Arlene Kasper, Program Development Supervisor, Department of Social Services, Division of Licensing, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

## INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

### Coordinating Committee

**May 13, 1988 - 8 a.m.** – Open Meeting  
Department of Corrections, 4615 West Broad Street, Room 105, Richmond, Virginia. ☒

**June 10, 1988 - 8 a.m.** – Open Meeting  
Tyler Building, 1603 Santa Rosa Road, Suite 221, Richmond, Virginia. ☒

A regularly scheduled monthly meeting to discuss administrative and policy areas related to the Interdepartmental Licensure and Certification of Residential Facilities for Children.

**Contact:** John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

## STATE BOARD FOR COMMUNITY COLLEGES

**May 18, 1988 - 1 p.m.** – Open Meeting  
The Cascades Conference Center, Williamsburg, Virginia

A working session. The committees will meet at 3 p.m. following the working session.

**May 19, 1988 - 9 a.m.** – Open Meeting  
The Cascades Conference Center, Williamsburg, Virginia

A state board meeting.



# Calendar of Events

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Contact: Joy S. Graham, telephone (804) 225-2126

## DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

### Virginia Cave Board

† **May 14, 1988 - 1 p.m.** – Open Meeting  
Virginia Museum of Natural History, 1001 Douglas Avenue,  
Conference Room, Martinsville, Virginia

A regular business meeting open to the public.

Contact: Dr. Lynn Ferguson, Chairman, Department of  
Natural Sciences, Longwood College, Farmville, Va. 23501,  
telephone (804) 392-9353 (W), 292-3560 (H)

### Falls of the James Advisory Committee

**May 20, 1988 - noon** – Open Meeting  
Richmond City Hall, 3rd Floor Conference Room,  
Richmond, Virginia. ☒

A regular meeting to discuss general business and  
issues affecting the portion of the James River that  
runs through the City of Richmond.

Contact: Richard G. Gibbons, Division of Parks and  
Recreation, 1201 Washington Bldg., Capitol Sq., Richmond,  
Va. 23219, telephone (804) 786-4132

## STATE BOARD OF CORRECTIONS

† **May 18, 1988 - 10 a.m.** – Open Meeting  
State Board of Corrections, 6900 Atmore Drive, Board  
Room 3053A, 3rd Floor, Richmond, Virginia

A regular monthly meeting to consider such matters  
as may be presented.

Contact: Vivian Toler, Secretary to the Board, 6900 Atmore  
Dr., Richmond, Va. 23225, telephone (804) 674-3116

## DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

**June 28, 1988 - 7 p.m.** – Public Hearing  
Holiday Inn, Wytheville, Virginia

**July 7, 1988 - 7 p.m.** – Public Hearing  
Omni Norfolk Hotel, Norfolk, Virginia

**July 13, 1988 - 10 a.m.** – Public Hearing  
6900 Atmore Drive, 3rd Floor Board Room, Richmond,  
Virginia

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Department of

Corrections intends to adopt regulations entitled: **VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** These proposed regulations set forth operating standards for Virginia Delinquency Prevention and Youth Development Act grant programs pertaining to program administration, services, personnel and fiscal management, staff training, and monitoring and evaluation.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 13, 1988.

Contact: Austen C. Micklem, Jr., Acting Chief of Operations  
for Programs, Division of Youth Services, Department of  
Corrections, P. O. Box 26963, Richmond, Va. 23261,  
telephone (804) 367-0130

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**June 28, 1988 - 7 p.m.** – Public Hearing  
Holiday Inn, Wytheville, Virginia

**July 7, 1988 - 7 p.m.** – Public Hearing  
Omni Norfolk Hotel, Norfolk, Virginia

**July 13, 1988 - 10 a.m.** – Public Hearing  
6900 Atmore Drive, 3rd Floor Board Room, Richmond,  
Virginia

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Department of  
Corrections intends to adopt regulations entitled: **VR 230-40-006. Rules and Regulations Governing Applications for Virginia Delinquency Prevention and Youth Development Act Grants.** These regulations govern application for Virginia Delinquency Prevention and Youth Development Act grants including eligibility, criteria for review and funding, and the review process.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 13, 1988.

Contact: Austen C. Micklem, Jr., Acting Chief of Operations  
for Programs, Division of Youth Services, Department of  
Corrections, P. O. Box 26963, Richmond, Va. 23261,  
telephone (804) 367-0130

## VIRGINIA BOARD OF COSMETOLOGY

**May 16, 1988 - 9 a.m.** – Open Meeting  
Travelers Building, 3600 West Broad Street, Richmond,  
Virginia. ☒

A meeting to review (i) enforcement cases; (ii)

applications; (iii) correspondence; and (iv) regulations.

**Contact:** Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA. 23230, telephone (804) 367-8590 or toll-free 1-800-552-3016

## DANVILLE LOCAL EMERGENCY PLANNING COMMITTEE

† **May 19, 1988 - 2 p.m.** – Open Meeting  
Municipal Building, 1st Floor Conference Room, Danville, Virginia. ☒

Local Committee, SARA Title III. Hazardous Material Community Right-to-Know.

**Contact:** C. David Lampley, Chairman, LEPC, 297 Bridge St., Danville, Va. 24541, telephone (804) 799-5228

## STATE BOARD OF EDUCATION

**May 26, 1988 - 9 a.m.** – Open Meeting  
**May 27, 1988 - 9 a.m.** – Open Meeting  
**June 22, 1988 - 9 a.m.** – Open Meeting  
**June 23, 1988 - 9 a.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

**Contact:** Margaret N. Roberts, James Monroe Bldg., 101 N. 14th St., 25th Fl., Richmond, Va. 23219, telephone (804) 225-2540

## VIRGINIA EMERGENCY RESPONSE COUNCIL

**May 12, 1988 - 3 p.m.** – Open Meeting  
Holiday Inn, Koger Center South, 1021 Koger Center Boulevard, Parlor D, Richmond, Virginia. ☒

1. Update on the (i) formation of local emergency planning committees (LEPCs); (ii) number of facilities reporting to the VERC under § 312 of SARA; (iii) Hazardous Materials Contingency Planning Courses; and (iv) SARA § 313 Workshops.

2. 1988 - 1990 Biennial Budget.

3. Liability Insurance Coverage for LEPC members.

4. Report from Governor's Task Force on Emergency Medical Response Disaster Planning.

**Contact:** Wayne T. Halbleib, Environmental Programs Administrator, Department of Waste Management, James Monroe Bldg., 11th Fl., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667 or SCATS 225-2667

## LOCAL EMERGENCY PLANNING COMMITTEE OF FAIRFAX COUNTY - TOWN OF VIENNA - CITY OF FAIRFAX - TOWN OF HERNDON

**May 12, 1988 - 10 a.m.** – Open Meeting  
Wood Municipal Center, Old Lee Highway, Fairfax, Virginia. ☒

Local Emergency Planning Committee on Emergency Planning to meet as required by SARA Title III.

**Contact:** Melanie Pearson, Community Information Coordinator, 4031 University Dr., Suite 400, Fairfax, Va. 22030, telephone (703) 246-2331

## LOCAL EMERGENCY PLANNING COMMITTEE FOR THE CITY OF MARTINSVILLE AND HENRY COUNTY

**May 12, 1988 - 9:30 a.m.** – Open Meeting  
Henry County Administration Building, Collinsville, Virginia. ☒

An open meeting to discuss general business relating to SARA Title III and development of the emergency response plan.

**Contact:** Benny Summerlin, Public Safety Director, Henry County Administration Building, P. O. Box 7, Collinsville, Va. 24078, telephone (703) 638-5311, ext. 256

## VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**May 17, 1988 - 9 a.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center-West, Conference Room 1, Richmond, Virginia

A meeting to (i) administer Virginia State Board for funeral service examinations; (ii) conduct formal administrative hearings; (iii) conduct a general board meeting; (iv) discuss proposed regulations; and (v) bylaws may be discussed.

**Contact:** Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

## BOARD OF GAME AND INLAND FISHERIES

† **May 19, 1988 - 3 p.m.** – Open Meeting  
Department of Game and Inland Fisheries, 4010 West

# Calendar of Events

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Broad Street, Richmond, Virginia. ☒

The Wildlife and Boat Committee of the board will meet to discuss: (i) policy regarding deer damage control; (ii) deer management assistance program; (iii) waterfowl habitat enhancement program; (iv) land acquisition; and (v) progress report on State Duck and National Forest Stamps.

Following this meeting, the board members may meet informally to discuss the business on the agenda for the regular meeting on May 20, 1988.

† **May 20, 1988 - 9:30 a.m.** – Open Meeting  
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☒

The Board of Game and Inland Fisheries will (i) act on certain amended and new proposed regulations pertaining to game and fish resulting from the repeal of certain local legislative acts by the 1987 General Assembly; (ii) consider a policy regarding deer damage control; (iii) present committee reports; (iv) discuss deer management assistance program; and (v) consider general administrative matters.

**Contact:** Norma G. Adams, Agency Regulatory Coordinator, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 367-1000, toll-free 1-800-237-5712 or SCATS 367-1000

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

† **June 3, 1988 - 10 a.m.** – Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Main Conference Room, Richmond, Virginia. ☒

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:** M. Stanley Krause, AIA, AICP, Architect, Rancorn, Wildman & Krause, Architects, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

## GLOUCESTER LOCAL EMERGENCY PLANNING COMMITTEE

† **May 25, 1988 - 6:30 p.m.** – Open Meeting  
Old Courthouse, Courthouse Green, Gloucester, Virginia. ☒

The LEPC will meet to continue the development of a local emergency plan for the county. Committee reports will be given from: Public Reactions, Facility Planning Coordination and HazMat Response Plan.

† **June 22, 1988 - 6:30 p.m.** – Open Meeting

Old Courthouse, Courthouse Green, Gloucester, Virginia. ☒

The LEPC will meet this month to further formulate and work on the development of its local plan. Standing committee reports will be presented on: A Public Awareness Campaign and Facility Planning Coordination.

**Contact:** Georgette N. Hurley, Assistant County Administrator, P. O. Box 329, Gloucester, Va. 23061, telephone (804) 693-4042

## HARRISONBURG/ROCKINGHAM LOCAL EMERGENCY PLANNING COMMITTEE

† **May 18, 1988 - 9 a.m.** – Open Meeting  
Maryland Avenue Fire Station, Harrisonburg, Virginia

Training session for local facilities.

**Contact:** J. M. Russell, Jr., Chairperson/Manager, Environmental Engineering, Merck & Co., Inc., P. O. Box 7, Elkton, Va. 22827-0007, telephone (703) 298-4110

## VIRGINIA HAZARDOUS MATERIALS EMERGENCY RESPONSE ADVISORY COUNCIL

**May 12, 1988 - 10 a.m.** – Open Meeting  
Holiday Inn, Koger Center South, 1021 Koger Center Boulevard, Parlor D, Richmond, Virginia. ☒

The business of the meeting will consist of (i) an update of response and training programs; (ii) briefing of proposed Level II Enhanced Response Concept; and (iii) briefing of hazardous materials training ad hoc committee status and proposed changes.

**Contact:** Addison E. Slayton, Jr., State Coordinator, Department of Emergency Services, 310 Turner Rd., Richmond, Va. 23225, telephone (804) 674-2497

## DEPARTMENT OF HEALTH

### Division of Licensure and Certification Nursing Home Licensure Regulation Review Advisory Committee

† **May 17, 1988 - 10 a.m.** – Open Meeting  
Virginia Health Care Association, 2112 West Laburnum Avenue, Suite 206, Richmond, Virginia. ☒

A meeting to review and discuss revisions to the Rules and Regulations for the Licensure of Nursing Homes in Virginia, October 15, 1980, as amended.

**Contact:** R. W. Harding, Assistance Director, Long-Term Care, Division of Licensure and Certification, Department of Health, James Madison Bldg., 109 Governor St., Room

1013, Richmond, Va. 23219, telephone (804) 225-3733 or SCATS 225-3733

**HEALTH POLICY OFFICE, VIRGINIA COMMONWEALTH UNIVERSITY  
OFFICE OF THE SECRETARY OF HUMAN RESOURCES,  
COMMONWEALTH OF VIRGINIA**

May 9, 1988 - 8 a.m. - Open Meeting  
May 10, 1988 - 8 a.m. - Open Meeting  
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☒

VCU Conference - AIDS: Living and Working With a New Epidemic.

See General Notices section.

Contact: Ann Potter, MCV Station, Box 48, Richmond, Va. 23298-0048, telephone (804) 786-0494

**COUNCIL ON HEALTH REGULATORY BOARDS**

**Compliance and Disciplinary Committee**

† May 12, 1988 - 11 a.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A monthly meeting for Council on Health Regulatory Board's enforcement Evaluation System.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9904 or SCATS 662-9904

**VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL**

† May 25, 1988 - 9:30 a.m. - Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

**HOPEWELL INDUSTRIAL SAFETY COUNCIL**

June 7, 1988 - 9 a.m. - Open Meeting  
July 5, 1988 - 9 a.m. - Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, City of Hopewell, 300 N. Main St., Hopewell, Va. 23860, telephone (804) 541-2298

**VIRGINIA HOUSING DEVELOPMENT AUTHORITY**

† May 17, 1988 - 10 a.m. - Open Meeting  
13 South 13th Street, Richmond, Virginia. ☒

A regular monthly meeting of the board to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

**BOARD OF HOUSING AND COMMUNITY DEVELOPMENT**

**Amusement Device Technical Advisory Committee**

May 10, 1988 - 8:30 a.m. - Open Meeting  
205 North 4th Street, 7th Floor Conference Room, Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

Contact: Jack A. Proctor, CPCA, Deputy Director, Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219-1747, telephone (804) 786-4752

**COUNCIL ON INDIANS**

May 11, 1988 - 2 p.m. - Open Meeting  
Ninth Street Office Building, Cabinet Conference Room, 6th Floor, Richmond, Virginia. ☒

A regular business meeting.

Contact: Mary Zoller, Special Assistant, Office of the Secretary of Human Resources, Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-7765

# Calendar of Events

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## LIBRARY BOARD

### Public Records Advisory Council

**May 19, 1988 - 10 a.m. - Open Meeting**  
Virginia State Library and Archives, 11th Street and Capitol Square, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

This will be an organizational meeting. Items to be discussed include: (i) general records retention and disposition schedules; (ii) standards for microfilm, recorded instruments, plats, and paper; and (iii) the Public Records Act.

**Contact:** Louis H. Manarin, State Archivist, Virginia State Library and Archives, 11th St. and Capitol Sq., Richmond, Va. 23219, telephone (804) 786-5579 or SCATS 786-5579

## COMMISSION ON LOCAL GOVERNMENT

**May 17, 1988 - 9 a.m. - Open Meeting**  
Ninth Street Office Building, Ninth and Grace Streets, Room 901, Richmond, Virginia. ☒

A regular meeting of the Commission on Local Government to consider such matters as may be presented.

**Contact:** Barbara W. Bingham, Executive Secretary Senior, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

## CITY OF LYNCHBURG LOCAL EMERGENCY PLANNING COMMITTEE

† **May 16, 1988 - 10 a.m. - Open Meeting**  
Lynchburg Public Library, 2315 Memorial Avenue, Community Room, Lynchburg, Virginia. ☒

A meeting to discuss the development of the Emergency Response Plan for Lynchburg.

**Contact:** Matthew Montavon, Planning Director, Central Virginia Planning District Commission, P. O. Box 2526, Lynchburg, Va. 24501, telephone (804) 845-3491

## BOARD OF MEDICAL ASSISTANCE SERVICES

**May 10, 1988 - 10 a.m. - Open Meeting**  
600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

An open meeting to discuss (i) amendments to Medicaid State Plan; and (ii) other business pertinent to the board.

**Contact:** Jacqueline M. Fritz, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300,

Richmond, Va. 23219, telephone (804) 786-7958

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**May 16, 1988 -** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **State Plan for Medical Assistance Relating to Extended Repayment Schedule (VR 460-02-4.191, 460-02-4.192, 460-03-4.194)**. The proposed regulation authorizes the director to extend scheduled repayments of overpayments in certain circumstances.

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

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933 or SCATS 786-7933

## VIRGINIA STATE BOARD OF MEDICINE

### Informal Conference Committee

**May 13, 1988 - 1 p.m. - Open Meeting**  
**May 18, 1988 - 9 a.m. - Open Meeting**  
† **May 19, 1988 - 9 a.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

† **May 20, 1988 - 10 a.m. - Open Meeting**  
Sheraton-Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☒

† **June 3, 1988 - 1 p.m. - Open Meeting**  
Williamsburg/James City County Circuit Court, 321-45 Court Street West, Counsel Chambers, Williamsburg, Virginia. ☒

† **June 17, 1988 - 10 a.m. - Open Meeting**  
Patrick Henry Inn and Conference Center, York and Page Streets, Williamsburg, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

### Legislative Committee

† **May 24, 1988 - 8:30 a.m. - Open Meeting**  
Holiday Inn - Midtown, 3200 West Broad Street, Commonwealth Room, Richmond, Virginia. ☒

The Legislative Committee will meet in open session to (i) review and respond to the public comments on the proposed rules and regulations; (ii) prepare code amendments to the healing arts; and (iii) discuss any other items which may come before the committee.

**Contact:** Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† May 25, 1988 - 9:30 a.m. - Open Meeting  
Region 10 Community Services Board, Charlottesville, Virginia. ☐

A regular monthly meeting. The agenda will be published on May 18 and may be obtained by calling Jane Helfrich.

**Contact:** Jane V. Helfrich, State Board Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

### State Human Rights Committee

† May 27, 1988 - 9 a.m. - Open Meeting  
Western State Hospital, Personnel and Staff Development Building #123, Staunton, Virginia. ☐

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to meeting.

**Contact:** Elsie D. Little, A.C.S.W., State Human Rights Director, P. O. 1797, Richmond, Va. 23214, telephone (804) 786-3988

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY, DIVISION OF CONTINUING EDUCATION, OFFICE OF CONTINUING LEGAL EDUCATION AND OFFICE OF CONTINUING MEDICAL EDUCATION

May 19, 1988 - 8:30 a.m. - Open Meeting  
May 20, 1988 - 8:30 a.m. - Open Meeting  
Williamsburg Hilton, Colonial Williamsburg, Virginia. ☐

Eleventh Annual Symposium on Mental Health and the Law

An annual symposium addressing issues related to mental health and the law. Nine hours in Category 1 CME, .9 CEU and 9 CLE credits applied for.

**Contact:** Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, Va. 22901, telephone (804) 924-5435

## MILK COMMISSION

† May 18, 1988 - 11 a.m. - Open Meeting  
Ninth Street Office Building, 9th and Grace Streets, Room 1015, Richmond, Virginia. ☐

A routine monthly meeting.

**Contact:** C. H. Coleman, Administrator, Ninth Street Office Bldg., 9th and Graces Sts., Room 1015, Richmond, Va. 23219, telephone (804) 786-2013

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Division of Mined Land Reclamation

† May 18, 1988 - 2 p.m. - Open Meeting  
Division's AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia. ☐

The purpose of this public meeting is to give interested persons an opportunity to be heard in regard to the proposed amendment to the FY87 AML Construction Grant. This proposed amendment will add an additional AML project to this grant. The White Oak Branch Highwall Project grant application will be submitted to the Federal Office of Surface Mining.

**Contact:** Roger L. Williams, Abandoned Mine Land Manager, P. O. Drawer U, 622 Powell Ave., Big Stone Gap, Va. 24219, telephone (703) 523-2925

## COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

† May 10, 1988 - 3 p.m. - Open Meeting  
Montgomery County Courthouse, Board of Supervisor's Room, 3rd Floor, Christianburg, Virginia. ☐

A meeting to (i) consider committee operating and community right-to-know procedures; and (ii) development of Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

**Contact:** Steve Via, New River Valley Planning District Commission, P. O. Box 3726, Radford, Va. 24143, telephone (703) 639-9313

# Calendar of Events

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## VIRGINIA MUSEUM OF FINE ARTS

### Board of Trustees

† **May 19, 1988 - 11:30 a.m.** – Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Auditorium, Richmond, Virginia. ☒

An annual meeting to (i) consider reports from each Trustee Committee; (ii) consider staff reports; and (iii) review budget for the coming year.

### Accessions Committee

† **May 18, 1988 - 2 p.m.** – Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Library Reading Room, Richmond, Virginia. ☒

Year-end consideration of gifts and purchases of works of art.

### Finance Committee

† **May 19, 1988 - 10:30 a.m.** – Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, The Payne Room, Members' Dining Room, Richmond, Virginia. ☒

Review of financial statements for the previous month; consideration of proposed 1988-89 budget.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Ave., Richmond, Va. 23221, telephone (804) 367-0553

## NORFOLK STATE UNIVERSITY

### Board of Visitors

† **May 14, 1988 - 10 a.m.** – Open Meeting  
Harrison B. Wilson Administration Building, Board Room, Norfolk, Virginia

The purpose of the meeting is to discuss various issues pertaining to the university. The agenda should be available at least five working days prior to the meeting.

**Contact:** Gerald D. Tyler, Norfolk State University, 2401 Corprew Ave., Wilson Hall-S340, Norfolk, Va. 23504, telephone (804) 623-8373

## VIRGINIA STATE BOARD OF NURSING

**May 23, 1988 - 9 a.m.** – Open Meeting  
**May 24, 1988 - 9 a.m.** – Open Meeting  
**May 25, 1988 - 9 a.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under jurisdiction of the board. At 1:30 p.m. on May 23, 1988, the board will consider comments on intended regulatory action and propose new and amended regulations as follows:

1. A new regulation for the direction or supervision of licensed practical nurses as required by § 54-377.2 of the Code of Virginia as amended by the 1988 General Assembly;
2. A new regulation requiring licensees to report a change of address; and
3. Amend, for clarity and enforceability, regulations related to approval of nursing education programs.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or SCATS 662-9909

## VIRGINIA STATE BOARD OF OPTICIANS

**May 12, 1988 - 9 a.m.** – Open Meeting  
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review (i) enforcement cases; (ii) applications; and (iii) correspondence.

**Contact:** Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8590 or toll-free 1-800-552-3016

## VIRGINIA BOARD OF OPTOMETRY

**May 11, 1988 - 8:30 a.m.** – Open Meeting  
**May 12, 1988 - 8:30 a.m.** – Open Meeting  
Hyatt Regency/Crystal City, 2799 Jefferson Davis Highway, Suite 408, Arlington, Virginia. ☒

General business and informal conferences.

**Contact:** Moira C. Lux, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

## STATE BOARD OF PHARMACY

**June 1, 1988 - 1 p.m.** – Open Meeting  
**June 2, 1988 - 9 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, 4th Floor West Conference Room, Richmond, Virginia. ☒

The board will consider the necessity for promulgation of regulations dealing with an examination on drug

laws for applicants for licensure by endorsement response to HB 515 amending § 54-524.26 of the Code of Virginia.

The board will consider the promulgation of licensure and other requirements for practitioners of the healing arts who engage in the selling or dispensing of drugs in response to SB 425 amending § 54-317 of the Code of Virginia.

The board will discuss increases in licensure fees to increase revenue to provide necessary funds for licensure, inspection and enforcement requirements.

Routine board business.

**Contact:** Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

## BOARD OF COMMISSIONERS TO EXAMINE PILOTS

† **June 21, 1988 - 10 a.m.** – Open Meeting  
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia. ☒

A committee of the board will meet to review board procedures, consider public comment concerning its existing regulations and develop recommendations for revisions to its current recommendations to conform to Senate Bill 238 which becomes law on January 1, 1989.

† **July 14, 1988 - 10 a.m.** – Open Meeting  
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia. ☒

The board will meet to conduct routine business at its regular quarterly business meeting.

**Contact:** David E. Dick, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8531 or toll-free 1-800-552-3016

## PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

† **May 20, 1988 - 2 p.m.** – Open Meeting  
† **June 3, 1988 - 2 p.m.** – Open Meeting  
† **June 17, 1988 - 2 p.m.** – Open Meeting  
† **July 15, 1988 - 2 p.m.** – Open Meeting  
† **July 29, 1988 - 2 p.m.** – Open Meeting  
† **August 12, 1988 - 2 p.m.** – Open Meeting  
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

**Contact:** Thomas J. Hajduk, Information Coordinator, 1

County Complex Court, Prince William, Va. 22192-9201, telephone (703) 335-6800

## VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

† **May 18, 1988 - 1 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conference.

**Contact:** Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912

## VIRGINIA BOARDS OF PROFESSIONAL COUNSELORS AND PSYCHOLOGY

† **May 18, 1988 - 2 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conference.

**Contact:** Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912

## VIRGINIA BOARD OF PSYCHOLOGY

† **May 26, 1988 - 9 a.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to conduct general board business.

**Contact:** Stephanie A. Sivert, Executive Director, or Phyllis Henderson, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

## VIRGINIA REAL ESTATE BOARD

† **May 22, 1988 - 8:30 a.m.** – Open Meeting  
Holiday Inn, Covington, Virginia

A regular business meeting of the board. The agenda will consist of investigative cases (files) to be considered, files to be reconsidered, and matters relating to licensing issues (e.g., reinstatement, eligibility and waiver of regulation requests).

**Contact:** Joan L. White, Assistant Director for Real Estate, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, Va. 23230, telephone (804) 367-8552, toll-free 1-800-552-3016 or SCATS 367-8552



# Calendar of Events

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## **RICHMOND CITY LOCAL EMERGENCY PLANNING COMMITTEE**

† **May 11, 1988 - noon** – Open Meeting  
Richmond Bureau of Fire Training Facility, 5600 Beulah Road, Richmond, Virginia. ☒

EPA - VPI presentation on Local Emergency Planning Committee activities.

**Contact:** Thomas E. Price, Community Emergency Coordinator, Richmond Bureau of Fire, 501 N. Ninth St., Room 134, Richmond, Va. 23219, telephone (804) 780-4120

## **STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD**

**June 29, 1988 - 10 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permit.

**Contact:** Deborah E. Randolph, 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-3559

## **DEPARTMENT OF SOCIAL SERVICES (BOARD OF)**

**June 22, 1988 - 9 a.m.** – Public Hearing  
Blair Building, 8007 Discovery Drive, Conference Rooms A and B, Richmond, Virginia

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: **VR 615-08-1. Virginia Fuel Assistance Program.** The purpose of the proposed amendment is to assist low income households with the cost of energy needs.

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

Written comments may be submitted until June 10, 1988.

**Contact:** Charlene H. Chapman, Supervisor, Energy and Emergency Assistance, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9050 or toll-free 1-800-552-7091

## **VIRGINIA SOIL AND WATER CONSERVATION BOARD**

**May 19, 1988 - 9 a.m.** – Open Meeting  
203 Governor Street, Room 200, Richmond, Virginia

A regular bi-monthly business meeting.

**Contact:** Donald L. Wells, 203 Governor St., Suite 206,

Richmond, Va. 23219, telephone (804) 786-4356

## **SUSSEX COUNTY LOCAL EMERGENCY PLANNING COMMITTEE**

**May 10, 1988 - 7 p.m.** – Open Meeting  
Sussex Courthouse, School Board Room, Sussex, Virginia

A meeting to identify possible toxic waste problem areas and to continue work on the local county plan.

**Contact:** C. Taylor Everett, Chairman, P. O. Box 189, Waverly, Va. 23890, telephone (804) 834-2160

## **DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)**

† **May 19, 1988 - 10 a.m.** – Open Meeting  
Comfort Inn Oceanfront, 2015 Atlantic Avenue, Virginia Beach, Virginia. ☒ (Interpreter for deaf provided if requested)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

**Contact:** Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va., telephone (804) 786-9950

\* \* \* \* \*

**May 10, 1988 - 4 p.m.** – Public Hearing  
Garfield High School, Northern Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Transportation intends to adopt regulations entitled: **VR 385-01-07. Virginia Department of Transportation Noise Abatement Policy.** The proposed regulation establishes consistent criteria for providing noise abatement on all proposed highway projects in the Commonwealth.

Statutory Authority: § 33.1-12 of the Code of Virginia

Written comments may be submitted until May 10, 1988.

**Contact:** A. C. Anday, Coordinator, Air, Noise and Energy Section, Department of Transportation, 1401 E. Broad St., 11th Fl., Richmond, Va. 23219, telephone (804) 786-6556 or SCATS 786-6556

## **VIRGINIA BOARD OF VETERINARY MEDICINE**

**May 10, 1988 - 8 a.m.** – Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street,

Agecroft Room, Richmond, Virginia. ☒

Administration of the National Board Examination.

May 11, 1988 - 8 a.m. - Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street,  
Agecroft Room, Richmond, Virginia. ☒

Administration of the Clinical Competency Test.

Contact: Moira C. Lux, Executive Director, 1601 Rolling  
Hills Dr., Richmond, Va. 23229, telephone (804) 662-9915

**VIRGINIA RESOURCES AUTHORITY**

† May 10, 1988 - 10 a.m. - Open Meeting  
The Mutual Building, 909 East Main Street, 12th Floor  
Conference Room, Richmond, Virginia

The board will meet to (i) approve minutes of the meeting of March 8, 1988; (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 office of the authority one week prior to the date of meeting.

Contact: Shockley D. Gardner, Jr., P. O. Box 1300,  
Richmond, Va. 23210, telephone (804) 644-3100

**VIRGINIA COUNCIL ON VOCATIONAL EDUCATION**

† May 18, 1988 - 1:15 p.m. - Open Meeting  
† May 19, 1988 - 8:30 a.m. - Open Meeting  
Sheraton-Fredericksburg Resort and Conference Center,  
I-95 and Route 3, Fredericksburg, Virginia

† May 18, 1988 - 7 p.m. - Open Meeting  
James Monroe High School, 2300 Washington Avenue,  
Fredericksburg, Virginia

May 18, 1:15 p.m. - General session (open): Update on Vocational Education State Plan for FY 1989 and 1990; reports on marketing program, secondary/postsecondary articulation plan, New Horizons Conference, Apprenticeship Conference, NASCOVE meeting.

May 18, 7 p.m. - Public meeting on vocational education.

May 19, 8:30 a.m. - Business session (open): Reports from the Executive Committee, Committee on Business and Labor, Committee on JTPA, the Virginia Department of Education, the Governor's Job Training Coordinating Council, and the Virginia Community College System.

Contact: George S. Orr, Jr., Executive Director, Virginia

Council on Vocational Education, P. O. Box U, Blacksburg, Va. 24063-1035, telephone (703) 961-6945

**VIRGINIA VOLUNTARY FORMULARY BOARD**

June 3, 1988 - 10 a.m. - Public Hearing  
James Madison Building, 109 Governor Street, Main Floor  
Conference Room, Richmond, Virginia. ☒

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of a revised Virginia Voluntary Formulary. The proposed revision to the Formulary adds and deletes drugs and drug products to the Formulary that became effective on November 1, 1987, and a supplement to the Formulary that becomes effective on May 1, 1988.

Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia. Written comments sent to the above address and received prior to 5 p.m., June 3, 1988, will be made a part of the hearing record and considered by the board.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

**STATE WATER CONTROL BOARD**

June 27, 1988 - 9 a.m. - Open Meeting  
June 28, 1988 - 9 a.m. - Open Meeting  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6829

\* \* \* \* \*

June 6, 1988 - 7 p.m. - Public Hearing  
Norfolk City Council Chambers, City Hall Building, 810 Union Street, Norfolk, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: VR 680-21-01.13. Tributyltin in Surface Waters - Water Quality Standards. The purpose of the proposed amendment is to establish an instream water quality standard for tributyltin.

# Calendar of Events

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Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., June 24, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985

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**June 7, 1988 - 7 p.m. – Public Hearing**  
Loudoun County Board of Supervisors Room, County Administration Building, 18 North King Street, Leesburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-11-04. Policy for Waste Treatment and Water Quality Management for the Dulles Area Watershed.** The purpose of this action is to amend the policy to reduce the minimum separation distance between wastewater discharges in the Dulles Area Watershed and downstream public water supply intakes from 15 stream miles to five stream miles.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., June 24, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Steve Hogye, Supervisor of Water Resources Development, State Water Control Board, Northern Regional Office, 5515 Cherokee Avenue, Suite 404, Alexandria, Va. 22312, telephone (703) 750-9111 or SCATS 466-4950

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**June 9, 1988 - 7 p.m. – Public Hearing**  
Paul D. Camp Community College, Lecture Hall, Room 143, Franklin, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-07.03. Nutrient Enriched Waters - Water Quality Standards.** The purpose of the amendment is to designate the tidal freshwater portions of the Blackwater River and Nottoway River as “nutrient enriched waters.”

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comment may be submitted until 5 p.m., June 24, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985 or SCATS 367-6985

## COUNCIL ON THE STATUS OF WOMEN

**May 13, 1988 - 10 a.m. – Open Meeting**  
**May 14, 1988 - 10 a.m. – Open Meeting**  
Airfield Conference Center, Southeast 4-H Educational Center, Wakefield, Virginia

A planning meeting for the next biennium for standing committees and the council. An agenda may be obtained from the council office on May 1.

**Contact:** Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

## CHRONOLOGICAL LIST

### OPEN MEETINGS

**May 9**  
Health Policy Office, Virginia Commonwealth University; Office of the Secretary of Human Resources, Commonwealth of Virginia

**May 10**  
Health Policy Office, Virginia Commonwealth University; Office of the Secretary of Human Resources, Commonwealth of Virginia  
Housing and Community Development, Board of - Amusement Device Technical Advisory Committee  
Medical Assistance Services, Board of  
† Montgomery/Town of Blacksburg Local Emergency Planning Committee, County of  
Sussex County Local Emergency Planning Committee  
Veterinary Medicine, Virginia Board of  
† Virginia Resources Authority

**May 11**  
Indians, Council on  
Optometry, Virginia Board of  
† Richmond City Local Emergency Planning Committee  
Veterinary Medicine, Virginia Board of

**May 12**  
Emergency Planning Committee of Fairfax County - Town of Vienna - City of Fairfax - Town of Herndon, Local  
Emergency Planning for the City of Martinsville and Henry County, Local  
Emergency Response Council, Virginia  
Hazardous Materials Emergency Response Advisory Council, Virginia

† Health Regulatory Boards, Council on  
- Compliance and Disciplinary Committee  
Opticians, Virginia State Board of  
Optometry, Virginia Board of  
Public Records Advisory Council

## May 13

Children's Residential Facilities, Interdepartmental  
Licensure and Certification of  
- Coordinating Committee  
Medicine, Virginia State Board of  
- Informal Conference Committee  
Women, Council on the Status

## May 14

† Conservation and Historic Resources, Department of  
- Virginia Cave Board  
† Norfolk State University  
- Board of Visitors  
Women, Council on the Status

## May 16

Agricultural Council, Virginia  
Cosmetology, Virginia Board of  
† Lynchburg Local Emergency Planning Committee,  
City of

## May 17

Funeral Directors and Embalmers, Virginia Board of  
† Health, Department of  
- Division of Licensure and Certification; Nursing  
Home Licensure Regulation Review Advisory  
Committee  
† Housing Development Authority, Virginia  
Local Government, Commission on

## May 18

Community Colleges, State Board for  
† Corrections, State Board of  
† Harrisonburg/Rockingham Local Emergency  
Planning Committee  
Medicine, Virginia State Board  
- Informal Conference Committee  
† Milk Commission  
† Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation  
† Museum of Fine Arts, Virginia  
- Accessions Committee  
† Professional Counselors, Virginia Board of  
† Professional Counselors and Psychology, Virginia  
Boards of  
† Vocational Education, Virginia Council on

## May 19

Architects, Professional Engineers, Land Surveyors and  
Certified Landscape Architects, State Board of  
- Virginia State Board of Land Surveyors  
Chesterfield County, Local Emergency Planning  
Committee of  
Community Colleges, State Board for  
† Danville Local Emergency Planning Committee

† Game and Inland Fisheries, Board of  
† Medicine, Virginia State Board of  
- Informal Conference Committee  
Mental Health, Mental Retardation and Substance  
Abuse Services, Department of; University of Virginia  
Institute of Law, Psychiatry and Public Policy,  
Division of Continuing Education, Office of Continuing  
Legal Education and Office of Continuing Medical  
Education  
† Museum of Fine Arts, Virginia  
- Board of Trustees  
- Finance Committee  
Soil and Water Conservation Board, Virginia  
† Transportation Board, Commonwealth  
† Vocational Education, Virginia Council on

## May 20

† Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects, State Board of  
- Virginia State Board of Certified Landscape  
Architects  
Conservation and Historic Resources, Department of  
- Falls of the James Advisory Committee  
† Game and Inland Fisheries, Board of  
† Medicine, Virginia State Board of  
- Informal Conference Committee  
Mental Health, Mental Retardation and Substance  
Abuse Services, Department of; University of Virginia  
Institute of Law, Psychiatry and Public Policy,  
Division of Continuing Education, Office of Continuing  
Legal Education and Office of Continuing Medical  
Education  
† Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee

## May 22

† Real Estate Board, Virginia

## May 23

† Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board  
Nursing, Virginia State Board of

## May 24

† Medicine, Virginia State Board of  
- Legislative Committee  
Nursing, Virginia State Board of

## May 25

† Bedford County Local Emergency Planning  
Committee  
† Gloucester Local Emergency Planning Committee  
† Health Services Cost Review Council, Virginia  
† Mental Health, Mental Retardation and Substance  
Abuse Services Board, State  
Nursing, Virginia State Board of

## May 26

† Air Pollution Control Board, State  
† Arlington County/City of Falls Church Local  
Emergency Planning Committee

# Calendar of Events

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- Education, State Board of  
† Psychology, Virginia Board of
- May 27**  
Education, State Board of  
† Mental Health, Mental Retardation and Substance  
Abuse Services, Department of  
- State Human Rights Committee
- June 1**  
Pharmacy, State Board of
- June 2**  
Chesterfield County, Local Emergency Planning  
Committee of  
Pharmacy, State Board of
- June 3**  
† General Services, Department of  
- Art and Architectural Review Board  
† Medicine, Virginia State Board of  
- Informal Conference Committee  
† Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee
- June 7**  
Hopewell Industrial Safety Council
- June 10**  
Children's Residential Facilities, Interdepartmental  
Licensure and Certification of  
- Coordinating Committee
- June 16**  
† Chesterfield County, Local Emergency Planning  
Committee of
- June 17**  
† Medicine, Virginia State Board of  
- Informal Conference Committee  
† Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee
- June 21**  
† Pilots, Board of Commissioners to Examine
- June 22**  
Education, State Board of  
† Gloucester Local Emergency Planning Committee
- June 23**  
Education, State Board of
- June 27**  
Water Control Board, State
- June 28**  
Water Control Board, State
- June 29**  
Sewage Handling and Disposal Appeals Review Board,
- State
- July 5**  
Hopewell Industrial Safety Council
- July 7**  
† Chesterfield County, Local Emergency Planning  
Committee of
- July 11**  
† Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board
- July 14**  
† Pilots, Board of Commissioners to Examine
- July 15**  
† Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee
- July 29**  
† Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee
- August 12**  
† Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee

## PUBLIC HEARINGS

- May 10**  
Transportation, Department of
- May 26**  
† Air Pollution Control Board, State
- June 3**  
Voluntary Formulary Board, Virginia
- June 6**  
Water Control Board, State
- June 7**  
Water Control Board, State
- June 9**  
Water Control Board, State
- June 22**  
Social Services, Department of
- June 28**  
Corrections, Department of
- July 7**  
Corrections, Department of
- July 13**  
Corrections, Department of