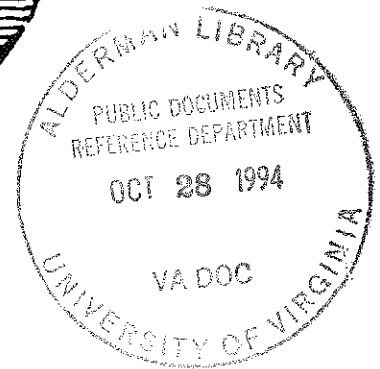
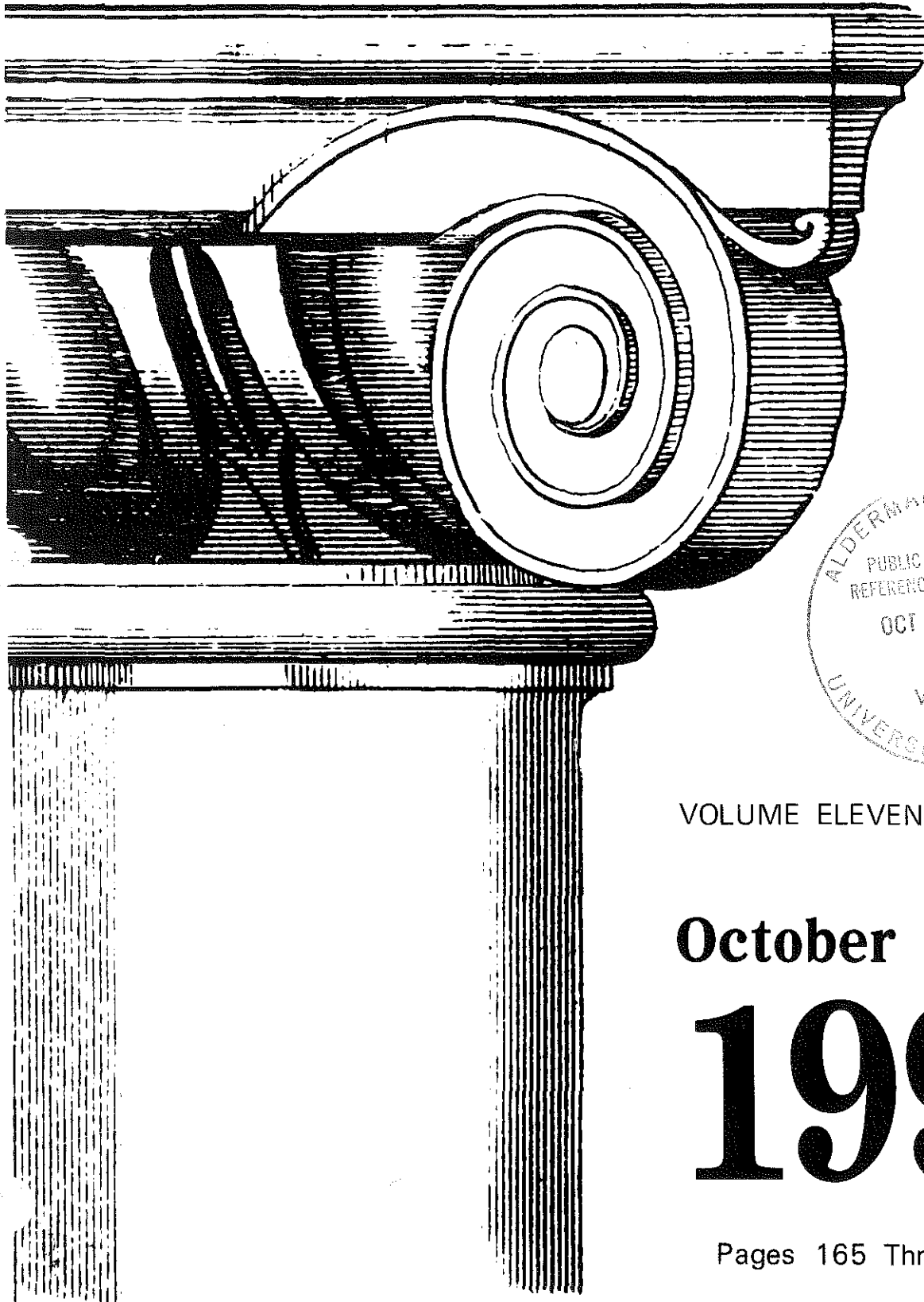


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# THE VIRGINIA REGISTER

OF REGULATIONS

VA  
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October 17, 1994

# 1994

Pages 165 Through 316

## 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 periodically 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 the regulation becomes final.

### 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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# NOTICES OF INTENDED REGULATORY ACTION

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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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## BOARD FOR ACCOUNTANCY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider amending regulations entitled: **VR 105-01-2. Board for Accountancy Regulations.** The purpose of the proposed action is to modify § 2.1, Qualifications for certification. The board intends to hold a public hearing on this matter. The date, time and location of the hearing will be published at a later date.

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

Written comments may be submitted until October 20, 1994.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

VA.R. Doc. No. R94-2630; Filed August 30, 1994, 11:59 a.m.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **VR 240-03-2. Regulations Relating to Private Security Services.** The purpose of the proposed action is to incorporate and implement legislative mandates of the 1994 General Assembly relating to private security services. The board intends to conduct a public hearing in the spring of 1995 to hear and consider recommendations concerning the proposed amendments.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until November 2, 1994, to L.T. Eckenrode, Department of Criminal Justice Services, P.O. Box 10110, Richmond, Virginia 23240-9998.

**Contact:** Paula Scott, Administrative Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

VA.R. Doc. No. R95-16; Filed September 14, 1994, 11:52 a.m.

# PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

## Symbol Key

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

## GEORGE MASON UNIVERSITY

**EDITOR'S NOTICE:** The following regulations filed by George Mason University are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

**Title of Regulations:** VR 340-01-01. Parking Citation Appeals.

**Statutory Authority:** § 23-91.29 (a) of the Code of Virginia.

**Public Hearing Date:** N/A

### Summary:

The regulation is designed to outline the university's appeals procedures utilized for parking citations applicable to university faculty, staff, students, university contractors and visitors who use university owned and leased parking facilities.

VR 340-01-01. Parking Citation Appeals.

### § 1. Scope.

This regulation applies to all George Mason University faculty, staff, students, university contractors, and visitors who use university owned and leased parking facilities.

### § 2. General provisions.

This procedure is designed to assist the university administration in evaluating the parking program, to highlight problem areas, to provide a learning experience to those who receive citations while using George Mason University parking facilities, and to provide an avenue to correct enforcement errors.

Requests for an appeal must be submitted in writing within 10 calendar days of the citation date, and must be submitted on the Parking Citation Appeal form. Any appeal not filed within this time is automatically denied. While the citation is under review, fines are held in abeyance. Each request for appeal will be carefully reviewed by the hearing officer. The hearing officer will base his decision on the George Mason University Motor Vehicle Regulations (VR 340-01-02) and on the information presented in the written request. The hearing officer may uphold the appeal, deny the appeal, or reduce the violation to an appropriate lesser violation. The decision of the hearing officer together with comments are reported

to the appellant by mail.

The appellant can appeal the decision of the hearing officer as set forth in § 6 of this administrative policy. Fines due after the appeal is decided must be paid within 10 calendar days of the decision date. Failure to pay citations or appealed citations by a faculty or staff member will result in the individual's outstanding account being turned over to a collection agency. Students will be placed on financial suspension.

Information submitted in support of appeals or re-appeals or both is received at face value and is subject to validation by the university.

### § 3. Responsibilities.

The Associate Vice President for Operational Services has the responsibilities for monitoring the Parking Citation Appeals policy and recommending new or revised policies and procedures.

### § 4. Appeals.

Parking citations may be appealed in accordance with the provisions of this policy within 10 calendar days of the citation issue date. Appeals must be filed in writing on the Parking Citation Appeal form. Forms are available at the Parking Services Office and at the information booths. Fines associated with appealed citations need not be paid until the appellant is advised of the decision.

### § 5. General appeals procedures.

A. All faculty, staff, student, and visitor appeals will be considered by an appeals hearing officer, who may uphold the appeal, deny the appeal, or reduce the regulation violated to a lesser offense. The results of the appeal will be reported to the appellant by United States mail. Payment of fines on appealed citations are due within 10 calendar days after the decision date. The appeals hearing officer serves the Judicial and Advisory Board and the Student Parking Appeals Review Board for the Associate Vice President for Operational Services and is not affiliated with the Parking Services Office. Student appeals are considered by the Student Parking Appeals Review Board.

B. Appeals guidelines are described in this subsection.

1. The citation is presumed valid. It is the obligation of the appellant to present information that would invalidate the ticket.

2. Reasons that might warrant invalidation of the ticket are: evidence of illness that necessitated the violation, mechanical breakdowns that were handled in a reasonable expeditious manner, documented erroneous information given by a parking services employee, or other circumstances that are unusual enough to warrant special consideration.

3. Reasons to warrant a downgrade of the ticket are: when further information that was not readily available to the marshall is provided to the reviewer as a justification for the downgrade (e.g., a ticket for "no decal" given to a car that has been issued a valid decal, but not displaying the decal), valid misunderstandings regarding ambiguous parking areas, judgment of the reviewer, etc.

4. A specific reason for denial need not be given. A general statement can be made that a sufficient reason for reversal was not contained in the written appeal. The appeals process sheet states that decisions are made based on the George Mason University Motor Vehicle Regulations (VR 340-01-02), on information presented in the written request and on any further comments made by the appellant in case of a re-appeal.

## § 6. Reconsideration.

Requests for reconsideration of denied appeals may be made to the Parking Services Office. The request for reconsideration must be made within 10 calendar days from the date stamped on the Appeal Board decision sent to the appellant. One or more of the following criteria must be met for the appeal to be reconsidered.

1. No university parking regulation appears to have been violated.
2. Citation, as written, contains a material error.
3. Additional information of a material nature and not included on the original appeal form, warrants reconsideration.
4. Unusual circumstances in mitigation or extenuation appear to exist.
5. Parking regulations appear sufficiently vague or misleading to warrant reconsideration.

For an appeal to be reconsidered by the Judicial and Advisory Board or the Student Parking Appeals Review Board, the appellant must be present at the scheduled hearing. The appellant will be accorded an opportunity to present succinct comments bearing directly on the case being considered. All balloting will be conducted in closed session; the university's decision is final.

## § 7. Failure to file promptly.

Failure to file the completed appeal or re-appeal form within the prescribed time period shall constitute a waiver of the right to appeal the violation.

§ 8. Appeal Board membership and term of membership; Judicial and Advisory Board; Student Parking Appeals Review Board.

A. The Judicial and Advisory Board has been appointed to hear parking citation appeals and advise the Associate Vice President for Operational Services on parking related matters. The board consists of three faculty members and three staff members appointed by the Associate Vice President for Operational Services.

Appointments to the board are for two-year renewable terms and run from September 1 through August 31. The chairman is selected for a three-year renewable term by board members and must have served at least one year on the board.

When a member's two-year term ends, the Director of Parking Services will submit additional names to the Associate Vice President for Operational Services for consideration. The Associate Vice President will either renew the member's term or appoint a new member to the board for those nominated.

The chairman will contact the new nominee to further explain the workings of the group and to discuss their specific responsibilities.

The Judicial and Advisory Board shall meet each month to hear appeals from faculty, staff and visitors to the George Mason University campus. The hearings are scheduled by the Parking Services Office from September through May. At least one hearing should be scheduled during the summer months.

The board shall inform and advise the Parking Services Office of parking regulations which appear vague or misleading and advise about areas on campus not having appropriate signage and ambiguous parking areas.

When a new chairman is elected by the board, the Associate Vice President for Operational Services and the Director of Parking Services will meet with the new appointee and previous chairman to go over the appeals process, rules, and regulations.

B. The Student Parking Appeals Review Board is constituted under the regulations of the University Judicial Board as set forth in the George Mason University Judicial System for Student Conduct. The membership of the board is to be comprised of current members of the Court of General Sessions of the University Judicial Board. The terms of each member is established in accordance with the regulations set forth in Section X, Article X-B of the Judicial System for Student Conduct.

## § 9. Amendments, additions, and review.



# Proposed Regulations

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A. All amendments and additions to the Parking Citation Appeals policy are to be reviewed and approved by the Office of the Executive Vice President for Administration and the Office of the Executive Vice President for Finance and Planning.

B. This policy shall be reviewed and revised, if necessary, annually.

VA.R. Doc. No. R94-1205; Filed September 15, 1994, 4:04 p.m.

\* \* \* \* \*

**Title of Regulations:** VR 340-01-02. Motor Vehicle Regulations.

**Statutory Authority:** § 23-91.29 (a) of the Code of Virginia.

**Public Hearing Date:** N/A

**Summary:**

The proposed regulation is designed to outline the proper parking policies and procedures for faculty, staff, students, and visitors.

VR 340-01-02. Motor Vehicle Regulations.

PART I.  
SCOPE.

§ 1.1. Purpose and applicability.

A. The purpose of these regulations is to set forth the proper parking policies and procedures for faculty, staff, students, and visitors.

B. These regulations apply to all motor vehicles including motorcycles operated on university owned or leased property, regardless of whether or not the vehicle is operated by the registered owner.

PART II.  
PARKING FACILITIES.

§ 2.1. Parking lots location and designation.

Refer to the map for lot location and designations.

§ 2.2. Faculty and staff; parking.

A. A faculty and staff member is defined as any full-time employee of George Mason University (GMU). Part-time employees such as graduate assistants, graduate teacher assistants, and any other part-time student employee is not considered a faculty or staff member and must purchase a student decal.

B. Lot H is reserved for faculty and staff from 7 a.m. to 7:30 p.m. Monday through Thursday and from 7 a.m. to 5 p.m. on Friday. Lot G is reserved for faculty and staff

from 7 a.m. to 1:30 p.m. Monday through Friday. After 1:30, Lot G is general parking available to all vehicles displaying a valid decal or day pass, except for two bays on the end.

Faculty and staff parking is available in front of the Physical Education Building, George's Hall, and the Recreation and Sports Complex, and a section of Lot B near the west end is designated faculty and staff parking.

C. Lots A, B, D, F, K, M, O, and P are available to faculty and staff members to park.

D. Reciprocity has been established between George Mason University and NOVA regarding parking. Consequently any vehicle displaying a NOVA faculty and staff decal will be honored as displaying a valid George Mason University decal.

E. Reserved parking is authorized upon approval of the Parking Services Office and the Associate Vice President for Operational Services. The reserved parking is reserved Monday through Friday from 7 a.m. until 7 p.m.

§ 2.3. Students; parking.

A. A student is defined as any person enrolled in a class offered by George Mason University. This also includes graduate teacher assistants and graduate student assistants. Full-time faculty and staff members attending courses are not considered as students.

B. Parking lots E and I are reserved for student parking only.

General lots A, B, D, F, K, M, O, and P are also available to students for parking.

Faculty and staff designated parking lots are available to students after 6 p.m.

PART III.  
VISITOR/GUEST POLICY.

§ 3.1. Visitor and guest parking.

All visitors and guests to George Mason University will be required to park in the parking deck. Day passes will only be sold to persons with a valid George Mason University faculty, staff or student identification. Parking deck validations can be purchased through the Parking Services Office for those departments who wish to cover the cost of parking for their guests.

Guests and visitors with state issued handicapped parking permits may utilize the handicapped spaces in the parking deck by paying the hourly parking rate. Guests and visitors with handicapped permits may also purchase a day pass to park in a handicapped space that may be closer than the parking deck to their destination. Guests and visitors can only park at a meter without charge if all

other handicapped spaces in the area are full.

The objective of this policy is to increase the number of surface lot spaces available to vehicles with George Mason University parking decals. This is necessary due to the number of parking spaces that have been lost to various construction projects on campus.

## PART IV. HANDICAPPED PARKING POLICY.

### § 4.1. Purpose.

The purpose of this handicapped parking policy is to reduce the illegal use of handicapped parking permits by nonhandicapped individuals. Currently, some nonhandicapped individuals are taking advantage of state handicapped parking tags that were issued to members of their family or friends and parking in handicapped spaces on campus. These illegally parked vehicles reduce the number of available handicapped parking spaces for those who need them.

All persons with handicapped parking permits and George Mason University parking decals must register with the Parking Services Office. People with state handicapped plates must bring a copy of their Department of Motor Vehicles registration to the Parking Services Office and receive a George Mason University handicapped parking permit. People with state issued hang tags must bring a copy of both sides of their hang tag to the Parking Services Offices and receive a George Mason University handicapped parking permit. The George Mason University handicapped permit will be recognized at all handicapped parking spaces on campus. George Mason University will no longer recognize state Department of Motor Vehicles handicapped permits. Any vehicle with a George Mason University decal found parking in a handicapped space on campus without a George Mason University handicapped permit will be subject to citation.

### § 4.2. Types of handicapped permits.

The Parking Services Office issues four different types of permits:

1. A George Mason University Handicapped Pass is a laminated pass issued to those individuals with a Department of Motor Vehicles issued handicapped permit (license plate or hang tag). Individuals must bring a copy of their registration or hang tag to the Parking Services Office to obtain this permit which will also include their George Mason University parking decal.

a. Permanent permits will be issued to individuals with disabilities and will be valid for the entire academic year.

b. Temporary permits will be issued for individuals with temporary disabilities for a period of time

from seven weeks to one year.

2. A George Mason University Weekly Pass will be issued to individuals who are waiting for their laminated pass to be prepared.

3. A George Mason University Wheelchair/Stairlift Pass will be issued to individuals confined to a wheelchair and requiring special vehicles to egress from their vehicle.

4. A Temporary Handicapped Pass can be issued for two days without a note from a physician or for up to six weeks with a note from a physician. These permits may be obtained at the sales window (Student Union I, Room 201) or arrangements may be made to pick up the permit at one of the information booths.

### § 4.3. Obtaining a permanent George Mason University handicapped parking permit.

All George Mason University faculty, staff or students with Department of Motor Vehicles issued handicapped plates or hang tags should be directed to the Parking Services Administrative Office (Student Union I, Room 354) after they purchase their 1994-95 parking decal. The following is the process for obtaining a George Mason University handicapped permit:

1. Individual brings a copy of his Department of Motor Vehicles registration or a copy of both sides of his hang tag along with his decal to the Parking Services Administrative Office.

2. Individual will be given a one week temporary handicapped parking pass while his permanent pass is being prepared.

3. George Mason University decal will be laminated to a blue George Mason University handicapped parking pass.

4. Individual will be contacted by phone when the handicapped pass is ready. The pass can be picked up at the Finley Information Booth between the hours of 7 a.m. and 7 p.m.

### § 4.4. Obtaining a temporary George Mason University handicapped parking permit.

George Mason University temporary handicapped passes are available to all faculty, staff and students who demonstrate a need. These passes can be issued for two days without a note from a physician or for up to six weeks with a note from a physician. The following is the procedure for obtaining a temporary handicapped pass:

1. Individual reports to the sales window (located in Student Union I, Room 201).

2. Individual completes a temporary handicapped

# Proposed Regulations

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parking pass form.

3. Information is recorded in the log book by the clerk. This information includes name, social security number, period of time the pass is valid and decal number.

4. Individual is issued a temporary George Mason University parking permit.

George Mason University faculty, staff or students who do not have a George Mason University decal may obtain a temporary handicapped permit and should utilize the parking deck by paying the hourly parking rate or they may purchase to park in a handicapped space that may be closer than the parking deck to their destination.

## PART V. PARKING SPACES.

### § 5.1. Metered spaces.

Metered spaces are intended for those who have short-term parking needs in nearby areas.

There are 12 metered spaces located behind Student Union I, seven metered spaces located at Finley Circle, and 13 metered spaces located at Presidents Park. Meters are enforced from 7 a.m. until 11 p.m. seven days a week. Meter rates are posted on all meters.

There are five metered spaces located at the Metro Campus. The time limit on these meters is one hour. These meters are enforced from 8 a.m. until 5 p.m., Monday through Friday.

A George Mason University parking decal or permit is not valid at a meter.

Use of other than United States currency in any parking meter is prohibited by law.

Please report any malfunctioning meter and locations immediately to the Parking Services Office at extension 2710.

### § 5.2. Loading and unloading spaces.

Spaces have been designated for loading or unloading heavy materials. Permits for use of these designated areas are obtained from the Parking Services Office.

Loading and unloading is allowed only in designated areas. Prohibited and restricted areas, handicapped spaces and fire lanes are not designated loading and unloading areas. Loading and unloading in these areas is strictly enforced by the issuance of citations and towing.

Loading and unloading spaces are located in the following areas:

1. Behind Harris Theater
2. In front of the Finley Building
3. Behind Fenwick Library
4. On the side of Science and Technology II

### § 5.3. Service and repair spaces.

Spaces have been designated for vehicles while servicing machinery and equipment. These permits are obtained from the Parking Services Office. (NOTE: See Special Permits section, Part IX, for more information on obtaining these permits.)

Parking in prohibited and other restricted areas, handicapped spaces, fire lanes, and on the grass for service and repair of equipment is strictly enforced by the issuance of citations and towing.

Permits must be displayed when parked in service and repair spaces. Failure to do so will not relieve the offending party of their responsibility for any citation that may be incurred.

## PART VI. DISPLAYING DECAL OR PERMIT.

### § 6.1. Display of decal or permit; responsibility of motor; vehicle registered owner.

All vehicles parked on property owned by the university are required to display a valid George Mason University decal or permit. The registered owner of a motor vehicle is responsible for all violations incurred on the vehicle regardless of who is operating the vehicle. If the vehicle is displaying a valid decal and incurs a citation for violation of these rules and regulations, the registered owner of the decal may be held responsible for all citations issued to vehicles displaying that decal.

## PART VII. DECALS.

### § 7.1. Purchase of decal.

All faculty, staff or student decals are purchased from the Parking Services Office in Student Union I, Room 201A.

Decal applications are mailed to all registered faculty and staff members and students to qualify for individuals to purchase decals through the mail if desired.

To purchase a parking decal, individuals must comply with Commonwealth of Virginia regulations and not have any outstanding citations. Individuals must possess:

1. A valid state registration;

# Proposed Regulations

2. A valid state driver's license; and
3. A valid certificate of insurance from a recognized company showing coverage for public liability.

Current faculty or staff identification or proof of employment is needed to purchase a faculty/staff decal.

Faculty and staff may purchase decals only for their vehicles. Decals are not transferable to other persons.

## § 7.2. Prices for decals.

Full Year Decal .....	\$100
Semester Decal .....	\$ 65
Summer Decal .....	\$ 35
Motorcycle .....	\$ 25
Reserved Space .....	\$200
Reserved Parking Deck Per Month .....	\$ 30
Lost Decals .....	\$ 20
Daily .....	\$ 3
Stolen Decals .....	No charge

Senior citizens age 60 or over may receive one static-cling year decal free of charge if they meet the income requirements as defined in the George Mason University student catalog.

Stolen decals are replaced free-of-charge with proof of a stolen property report.

The original purchaser of a decal may receive a refund of the purchase price, less a \$5.00 administrative fee, according to the following schedule.

1. Students will receive a full refund up to and including last add/drop day of the semester in which the decal was purchased. One half refund will be made up to and including two weeks after the last add/drop day. Refunds will be made only after the requestor presents proof of withdrawal from the university. Payment for any outstanding citations will be deducted from any refund due.

2. Faculty and staff will receive a full refund up to and including the date which is 30 days from their appointment or employment, or both, with the university. One-half refund will be made up to and including the date which is 60 days from their appointment or employment, or both, with the university. Refunds will be made only after the requestor presents proof of their termination from university service. Payment for any outstanding

citations will be deducted from any refund due.

## § 7.3. Payment for purchase of decal.

Payment is to be made by cash, check, Visa or Mastercard.

Payment for the purchase of a decal through the mail can be made by check or credit card with proper authorization. Do not send cash through the mail.

Payment by coin is an unacceptable form of payment, rolled or unrolled.

Lost decals are replaced at a cost of \$20 for a yearly decal and \$10 for a semester decal.

Faculty and staff may elect to use payroll deduction for the purchase of a semester or year decal.

## § 7.4. Placement of decal.

All decals must be displayed on the inside of the rear window on the lower left-hand side of the vehicle. Bumper decals must be displayed on the left rear bumper.

Failure to properly display a decal may result in a citation.

## § 7.5. Additional decals.

If the owner of a registered motorcycle wishes to register a four-wheel vehicle in addition to their motorcycle, an additional charge of \$75 will be charged to cover the full year. The full price will be charged for all additional vehicles.

The registered owner of a decal is responsible for all citations issued to their decal.

## PART XIII. DAY PASSES/DAILY PERMITS.

§ 8.1. Day passes/daily permits are available at the information booth, or at the business office in Student Union I, Room 201A. These permits cost \$3.00 each with valid George Mason University faculty, staff or student identification and are valid for all general lots.

## PART IX. SPECIAL PERMITS.

### § 9.1. Special permits.

A. University faculty, staff and students with special parking needs must make prior arrangements to obtain the necessary permit through the Parking Services Office.

B. Applications for a handicapped parking permit are available at the Parking Services Office.

# Proposed Regulations

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C. Loading and unloading permits are obtained at the Parking Services Office for one day use. These permits are restricted to 30 minutes. All vehicles displaying a loading and unloading permit must display a valid George Mason University parking decal or day pass.

D. Individuals with the need for long-term permits must present written justification from their respective department head. Due to the limited number of loading and unloading spaces, a 30-minute restriction is also applicable to these permits. All vehicles displaying a loading and unloading permit also must display a valid George Mason University parking decal.

E. Service and repair permits are issued to vendors and contractors with written justification from the responsible department. Service and repair permits are intended for vendors and contractors, not for university personnel use.

F. Contractor permits are assigned to contractors and subcontractors working on university property. Contractor permits are intended for use by university personnel. All contractors must purchase and display valid permits.

Arrangements for contractor permits are made through the Parking Services Office in conjunction with the office of Facilities Planning or the Physical Plant and the appropriate representative of the contractor.

Permits issued to contractors or commercial firms may be restricted as to date, time, duration, and parking area. Contractor permits are not to be used for any other parking purposes.

## PART X. ENFORCEMENT.

### § 10.1. Enforcement.

All regulations as enacted by the Commonwealth of Virginia and George Mason University are enforced at all times. Vehicles in violation of these rules and regulations are subject to citations, immobilization, and towing at the owner's expense.

No motor vehicle operator, including university personnel, shall park a motor vehicle which violates any of these rules and regulations.

During the hours of 7 a.m. until 8 p.m., Monday through Thursday, and 7 a.m. until 5 p.m. on Friday, all vehicles must have a valid decal or permit and park in the appropriate designated areas.

Although decals are not required in the evening or on the weekend, all other rules and regulations are enforced 24 hours a day, seven days a week.

Parking is allowed between painted control lines only. Parking in areas posted as "No Parking," where curbs are painted yellow, on crosswalks, sidewalks, landscaped areas,

blocking trash dumpsters or barricaded areas constitutes parking in a "Prohibited Zone." Parking within 15 feet of a fire hydrant, where curbs are painted red, or in areas posted as "Fire Lanes" constitutes parking in a "Fire Lane." These violations may subject the vehicle to being cited or towed or both.

As outlined in Part II, Parking Facilities, certain lots and areas are restricted as to the type of permit required. Vehicles parked in improper areas will be subject to a citation for "Restricted Areas."

Reserved spaces are enforced Monday through Friday from 7 a.m. to 7 p.m.

Parking in handicapped spaces without the appropriate pass is subject to enforcement action 24 hours a day. (See Part IV.) This includes individuals who have handicapped passes but do not park in the appropriate spaces.

Loading zones and metered areas are subject to time limitations. Exceeding the posted time limits subjects the vehicle to be cited.

Displaying an old citation on a vehicle may cause the vehicle to be cited for fraudulent registration. Any alteration of a permit, decal or pass are also subject to the vehicle to be cited.

Parking in a metered spot after a citation has been issued may result in multiple citations. A citation may be issued one hour after the last citation was issued. These citations will carry a lesser charge than the original citation.

## PART XI. FINES.

### § 11.1. Fines.

The following lists all fines and their corresponding amounts:

Improper Display .....	\$ 15
Parking Over the Designated Lines .....	\$ 15
Overtime Parking .....	\$ 25
Restricted Parking .....	\$ 25
Parking in Prohibited Zone .....	\$ 25
Parking in Loading Zone .....	\$ 25
Fraudulent Registration .....	\$ 75
No Decal .....	\$ 60
Unauthorized Parking in Handicapped Area .....	\$100

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Boot Removal .....	\$ 35
Towing .....	\$ 25
Parking in a Fire Lane .....	\$ 50
Parking in Excess of One Hour at Meter .....	\$ 5

## § 11.2. Payment by mail.

Payment for fines are to be mailed to:

Parking Services Office  
George Mason University  
4400 University Drive  
Fairfax, VA 22030

Checks should include student identification number or faculty/staff number, and citation number.

All fines not paid within 10 days will be assessed a \$10 late fee. Fines not paid within 30 calendar days of issuance will be assessed an additional \$10 late fee.

## § 11.3. Student fines; visitor, faculty and staff fines.

A. Students who fail to pay or appeal citations will be placed on financial suspension.

B. Faculty and staff who fail to pay or appeal citations will result in the individual's outstanding amount being turned over to a collection agency after a 30-day amnesty period.

## § 11.4. Vehicle immobilization.

Those vehicles with outstanding fines in excess of \$100 will be subject to immobilization. Fines must be paid in full within 72 hours or the vehicle may be impounded and removed from the campus.

## § 11.5. Tax offset.

Unpaid fines chargeable to a resident of the Commonwealth of Virginia will be reported to the Virginia Department of Taxation. This will result in a deduction from the individual's Virginia State Income Tax refund, made payable to George Mason University, as an agency of the Commonwealth of Virginia.

## PART XII. APPEALS.

### § 12.1. Appeals.

Individuals who desire to appeal a citation must do so within 10 days of the date of issuance. Except in rare and unusual circumstances, the only proper basis for an appeal is the contention that the cited regulations were not violated. Citations for metered areas, towing and booting are not appealable.

All appeals will be received by the Parking Services Office and forwarded to the Parking Appeals Committee.

Appellants will be notified through the mail as to the decision of the Appeals Committee. Appellants who wish may present their case in person to the Appeals Committee, if unsatisfied with the initial decision.

Failure to file within 10 days of issuance of the citation shall constitute a waiver of the individual's right to appeal the citation.

All decisions of the Appeals Committee are final. Persons wishing to pursue this may go to district or request a University Administrative Review.

## PART XIII. GEORGE MASON LAW SCHOOL.

### § 13.1. George Mason Law School.

All regulations set forth herein shall be applicable at the George Mason University Law School, also referred to as the Arlington Campus.

Decals especially for the Arlington Campus are available at the Arlington Campus. Fairfax Campus decals are not valid at the Arlington Campus.

VA.R. Doc. No. R95-19; Filed September 15, 1994. 4:05 p.m.

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### Title of Regulations: VR 340-01-03. Space Utilization and Scheduling Policies and Procedures.

Statutory Authority: § 23-91.29 (a) of the Code of Virginia.

Public Hearing Date: N/A

### Summary:

The proposed regulation is designed to outline university policies for authorized use of university facilities for faculty, staff, students, university contractors and outside organizations.

VR 340-01-03. Space Utilization and Scheduling Policies and Procedures.

## PART I. GENERAL PROVISIONS.

### § 1.1. Scope.

This regulation applies to all George Mason University faculty, staff, students, university contractors, and organizations outside of the university who have authorized use of university facilities. This regulation applies to all George Mason University locations, owned and leased, including Fairfax Campus, Arlington Campus, GMU at

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Prince William, and GMU at the Center for Innovative Technology.

## § 1.2. Policy statement.

George Mason University facilities are intended primarily for the use of its students, faculty, and staff in their efforts to advance the educational mission of the university. No use shall be permitted which is inconsistent with the mission of the university or which shall result in undue competition with local commercial enterprises; nor shall any funds raised in connection with activities conducted in university facilities be destined to purposes which are exclusively religious or political, with exception of recognized university student groups, or to personal profit with exception of university employees running special approved projects and programs, or to further causes which are adverse to the well-being of the university.

## § 1.3. Responsibilities.

A. The responsibilities of the university departments and individuals charged with monitoring, scheduling, providing support services, and the day-to-day administrative coordination of this policy are set forth in this section.

B. The Events Scheduling Coordination Group shall have the responsibilities for monitoring this policy and recommending new or revised policies and procedures or both. The Events Scheduling Coordination Group also exists to recommend a management system for scheduling and for conducting multiple nonacademic events at all George Mason University locations. The coordination group is charged to:

1. Identify and resolve problems and conflicts associated with event scheduling and management focusing on long-term planning;
2. Develop logistical strategies for managing major, multiple, simultaneous events;
3. Establish a mechanism for resolving disputes not settled within the core group;
4. Recommend policies, procedures, and communication networks to improve the management of university events.

The members of this group are listed in § 8.1.

C. The persons or departments, or both, responsible for scheduling university spaces governed by these policies and procedures are listed in § 8.2. They are to schedule university space in accordance with the policies and procedures set forth in this regulation.

The persons or departments, or both, scheduling university spaces for events are to submit at a minimum the names of the events, place of the events, date(s), and

times to the office of the University Scheduling Coordinator/Information Services to be entered into the master event schedule and calendar; information entered must be entered or submitted by use of the Welber Facilities Scheduling System.

The persons or departments, or both, scheduling university space are responsible for scheduling only their respected spaces.

D. Supplementary to the persons or departments, or both, scheduling space, the individuals responsible for support services are listed in § 8.3. These individuals are responsible for planning and implementing the services necessary to support the event in accordance with this regulation.

E. The University Scheduling Coordinator shall have the responsibilities maintaining communication with all persons scheduling spaces, support services and, when required, users. The University Scheduling Coordinator's primary responsibility is to maintain a master schedule of the events for all George Mason University locations, ensure the dissemination of all necessary event information to the appropriate university departments, and ensure that all schedulers and users comply with the policies and procedures of this document.

The University Scheduling Coordinator shall work with the Events Scheduling Coordination Group. The University Scheduling Coordinator is responsible for scheduling and chairing the meetings of the Events Scheduling Coordination Group.

## PART II.

### DEFINITION OF USERS AND THEIR PRIORITIES.

#### § 2.1. Primary users; priorities for scheduling space.

A. To protect the primary users of university facilities, the priorities described in this section are to be observed in approving reservations and scheduling the requested space. No university facilities shall be scheduled which effectively eliminates its use for academic programs. Primary users are defined as George Mason University students, recognized student organizations, faculty, staff, and its colleges, schools, departments, centers, and institutes.

Scheduling of facilities for use by nonuniversity individuals or groups shall be consistent with the education mission and initiatives of the university. Programs or projects inconsistent with the mission and initiatives shall be approved by the President or his designee.

B. University activities necessary to the advancement of the educational mission of the university (i.e., academic classes and cocurricular activities as determined by the academic calendar) have first priority and may be scheduled at any time with advance notice.

C. Events sponsored by approved or recognized student organizations, faculty and staff, colleges, schools, departments, centers, and institutes that have the university as the primary targeted market or tied to a major university initiative or both have second priority and may be scheduled 12 to 18 months in advance.

D. Events sponsored by the above directed at the external community or paid participants or both, but a direct function of the academic mission of the university, have third priority and may be booked six to 12 months in advance, unless otherwise stated herein.

E. To the extent that facilities and support services are available, booked events related to university activity are fourth priority and may be booked three to six months in advance unless otherwise stated herein.

F. To the extent that facilities and support services are available, outside organizations whose mission and goals are congruent with the academic and service mission of the university are fifth priority and may be scheduled 60 to 90 days in advance unless otherwise stated herein.

### PART III. DEFINITION OF FACILITIES AND PRIORITIES BY FACILITY TYPE.

#### § 3.1. Student unions.

The first priority of the student unions is to accommodate the needs of the student or university sponsored programs that have the university community as the primary target or that are directly tied to a major university initiative. Programs internally directed that do not have the university community as the target audience receive second priority. Booked events receive third priority and community events receive fourth, all under the scheduling time sequences discussed in § 2.1.

#### § 3.2. Athletic facilities.

A. Following the schedule of classes, the first priority of the Physical Education Building shall be given to intercollegiate athletic events and practices, intramurals, club sports, and free play. Other student and university sponsored events shall be accorded second priority. Programs that do not have the university community as their primary audience shall receive third priority. Community groups shall have lowest priority.

B. The first priority of the Sports and Recreation Complex shall be those programs congruent with the athletic and recreational nature of this facility, including intercollegiate athletic events and practices, intramurals and free play. Classes shall be scheduled only when no other adequate or appropriate space exists.

C. Athletic fields and court areas shall follow the same priorities as set forth in subsection B of this section for the Sports and Recreation Complex.

#### § 3.3. Patriot Center.

The mission of the Patriot Center is to provide a home for George Mason University basketball, venue for the annual commencement, and a center for entertainment and community life in Northern Virginia. Annual university events shall continue to have first priority. Special university events shall have second priority. Third priority shall continue to be commercial events sponsored by the university's retained management firm.

Rental of the Patriot Center to nonuniversity organizations must be reviewed and approved by the President or his designee.

#### § 3.4. Center for the Arts.

A. The mission of the Concert Hall is to make the arts an inescapable presence in the life of the George Mason University community. First priority shall be given to events which fulfill the educational objectives of the institution. Second priority shall be given to university groups not exclusively in the arts and approved by the President or his designee. The third priority shall be given to nonprofit arts groups. Fourth priority shall be given to commercial art producers and presenters. All applicants in the third and fourth priorities must be approved by the President or his designee.

B. The Black Box Theater, TheaterSpace, Dance Studios, Orchestral and Choral Labs are designed for very specific activities and shall be used primarily for curricular and cocurricular performance programs. Other uses of these spaces must be congruent with function of the space and shall be considered only after curricular needs have been addressed.

C. GMU classes and departments with curricular performance requirements shall have first priority for use of Harris Theater. Second priority shall be given to student and university sponsored programs which have the George Mason University community as their primary target audience. Faculty, departments, conference services, centers and institutes that do not have the university as the primary audience shall have third priority. Community groups shall have fourth priority.

#### § 3.5. George Mason University at the Center for Innovative Technology.

The first priority at the Center for Innovative Technology is to accommodate credit courses and the Entrepreneurship Center Small Business Incubator program. The second priority is to accommodate university noncredit courses and seminars. The third priority is to accommodate nonuniversity organizations.

#### § 3.6. George Mason University at Prince William.

The first priority at Prince William is to accommodate credit courses and university special initiatives. The second



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priority is to accommodate university noncredit courses and seminars. The third priority is to accommodate nonuniversity organizations.

## § 3.7. Mason Hall.

The first priority of Mason Hall facilities is to accommodate the needs of the university governing board and central administration of the university and to provide facilities to support major university initiatives.

## § 3.8. Arlington Campus.

The first priority of the Arlington Campus is to accommodate university credit courses or programs. The second priority is noncredit programs, conferences, and community events.

## § 3.9. George Mason University at Quincy Street Station.

The first priority at Quincy Street Station is to accommodate university credit courses or programs. The second priority is to accommodate noncredit programs and seminars.

## § 3.10. The Center for Professional Development.

First priority for use of rooms is for Center for Professional Development courses, seminars, symposia, and workshops. Second priority is given to other university programs. Third priority is given to nonuniversity and for-profit organizations.

## § 3.11. Housing.

The first priority of housing is to provide university enrolled students with living quarter and residence life support programs. The second priority is to accommodate university programs as a support service for conferences, meetings and seminars. The third priority is given to nonuniversity organizations for housing as a support service.

### PART IV. FEES AND SUPPORT COSTS; REDUCTION OR WAIVER OF FEES.

#### § 4.1. Fees and support costs.

A. The user fees and support services cost schedules are presented in Part IX. The rental fees and support services costs shall be applicable to all users as defined in this section or as set forth in § 4.2.

B. User fees are not normally charged to university schools, colleges, departments, institutes, centers, faculty, staff, and students for programs that relate to the educational and research mission of the university. Typical exceptions are events cosponsored with a nonuniversity group or agency in a profit-sharing contract. Support services and equipment fees may be charged.

C. User fees and support service fees, if required, shall be assessed to all other authorized groups for each day or part of a day for the time period of the facility use.

D. User fees and support service fees shall be reviewed and, where required, revised annually. The effective dates for fees shall coincide with the university's fiscal year calendar, unless otherwise noted.

E. Increases or decreases in fees listed for the facilities and services must be approved by the Office of the Executive Vice President for Finance and Planning. All increases and decreases in fees are to be submitted to the Director of Auxiliary Enterprises for processing the approval. No fee change shall be implemented without the approval of the Office of the Executive Vice President for Finance and Planning.

#### § 4.2. Reduction or waiver of fees.

A. Reduced user fees may be charged when all of the following conditions exist:

1. The requesting group is a nonprofit organization;
2. The activity is congruent with the educational purpose of the university; and
3. No admission is charged except a fee estimated to cover the cost of the event, which should include support services cost.

B. When the conditions listed in subsection A of this section are met and the event significantly advances the goals of the university, all user fees may be waived at the decision of the President or his designee.

C. Waiving of user fees and charging reduced fees do not exempt the user from payment for support services and equipment.

### PART V. CONDITIONS AND RESTRICTIONS.

#### § 5.1. Conditions and restrictions.

A. The use of university facilities by any group may be denied if such group or its activities interferes with or is incompatible with the philosophy, educational missions and goals of this institution.

B. University and nonuniversity agencies using George Mason University facilities are not restricted by, nor may they restrict, on the basis of race, color, sex, sexual orientation, age, religion, creed, national origin, or political persuasion.

C. University users, where applicable, and nonuniversity agencies, unless a waiver is obtained, shall present formal evidence of appropriate insurance coverage to ensure that the university is fully protected. The applicant will name

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George Mason University as an "additionally insured" in the policy during the period the applicant is using university facilities. The policy will also waive the right of subrogation by George Mason University or the Commonwealth of Virginia.

Any insurance company will have a minimum best rating of "A" and be licensed to do business in the Commonwealth. Questions regarding insurance coverage should be referred to the Director of Risk Management and Environmental Safety. The following are specific provisions for which insurance may be required:

1. *Liability.* The applicant will indemnify, defend, and save harmless George Mason University from any liability, damage, expense, cause of action, suits, claims, judgments, and costs of defense arising from injury to persons or personal property which arise out of any act, failure to act, negligence of the applicant, its agents, or employees. All personal property of the applicant, its employees, agents, licensees, servants, clients, members, guests, or trespassers shall be at the sole risk of said parties; George Mason University shall not be liable to any such person or party for any damage or loss to personal property thereof.

2. *Property.* The applicant will maintain a bond or insurance coverage to ensure repair or replacement for all George Mason University property, and the property of its employees, that may be lost or damaged as a result of the event.

3. *Worker's compensation.* The applicant will carry and keep in full force and effect at all times worker's compensation insurance in accordance with the state law. This provision applies to both the applicant and related organizations who hire personnel associated with the event.

4. *Liens and bills.* The applicant will indemnify, defend and save harmless George Mason University from any liability, damage, expense, cause of action, suits, claims, judgments and costs of defense arising from any liens, bills, charges, credits, other expenses incurred by or placed against the applicant.

D. Established university regulations and policies, as outlined in the George Mason University Student Handbook and the University Catalog, and as amended, apply to all activities held at the university.

## PART VI. APPLICATION APPROVAL.

### § 6.1. Application approval.

Approval for use of university facilities is not rendered until a university facility request form or facility specific contract is signed by the appropriately authorized university official. Failure to obtain required approvals or comply with university policies and procedures as outlined

in this regulation and failure to pay all fees in a timely fashion may result in temporary or permanent loss of facility use privileges.

## PART VII. AMENDMENTS AND ADDITIONS.

### § 7.1. Amendments and additions.

All amendments and additions to this regulation are to be reviewed and approved by the Office of the Executive Vice President for Administration and the Office of the Executive Vice President for Finance and Planning.

## PART VIII. SCHEDULING RESPONSIBILITIES.

### § 8.1. Event Scheduling Coordinator Group.

The Event Scheduling Coordinator Group exists to develop and implement a management system for scheduling university space and for conducting multiple events on campus. The members of the group are:

University Scheduling Coordinator  
Director of the Institute of the Arts  
Director of Athletics  
Dean of Student Services  
Student Union II Scheduling Coordinator  
General Manager of the Patriot Center  
Director of Public Safety  
Vice President for Facilities  
Vice Provost for Academic Support  
Director of University Activities  
Director of Prince William Institute  
Director of Auxiliary Services  
Director of Media Relations  
Director of Arlington Campus/Quincy Street Professional Center  
Director of Food Service  
Director of Housing and Resident Life  
Associate Director of Student Unions  
Representative of the Student Union Board

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## Representative of the Student Government

Chairperson of the Faculty Senate Committee on Facilities and Support Services

Director of Conferences and Institutes for Center for Professional Development

In the event that the designated person listed is unable to attend a meeting, a representative shall be selected to attend in his absence.

### § 8.2. Scheduling university spaces.

The persons or departments, or both, responsible for scheduling university spaces governed by this policy are:

RESPONSIBLE PERSON/DEPARTMENT	SPACE/FACILITY
Associate Director for Union Operations	Student Union I Student Union II Academic Space: Nonclass activities during nonsummer term
Director of Student Organizations	Student Union I Quad and Grounds around Student Union II
Registrar	Academic Space: Classes only
Director of Summer Term	Academic Space: all activities during summer term
House Manager, Institute of the Arts	Center for the Arts (Concert Hall, Harris Theater, Black Box, TheaterSpace and Dance Studios.)
Director of the Professional Center	Arlington Campus Professional Center and GMU Quincy Street Station Professional Center, George Mason University at the Center for Innovative Technology
Director of University Activities	Mason Hall and Plaza
Associate Dean, School of Law	Law School Facilities
Music Department	Music Rehearsal Rooms
Director	Hemlock Overlook and Bull Run Marina
Director of Conferences and Institutes	Center for Professional Development
Director of Housing and Residence Life	Housing
Director of Sports and Recreation Complex	Sports and Recreation Complex Physical Education Building, Athletic Fields and Courts Areas
Associate Vice President Operational Services	Outdoor space other than the Student Union I Quad, Athletic Fields, Mason Hall Plaza, and Student Union II Plaza and Court Area
Director, Center Management	Patriot Center
Director, Prince William Institute	Prince William Institute, Manassas

### § 8.3. Scheduling university support services.

The persons responsible for scheduling university support services are:

PERSON	SUPPORT SERVICE
Director of Work Control, Physical Plant	Building and Grounds Custodial Electrical/Mechanical
Manager, Parking Services	Parking Lots Parking Technician
House Manager, Center for the Arts	House Manager Theater Technician Ushers
Director for Public Safety	Police Officers Traffic Control Officers
Director, Media Relations	Media
Director, Food Service	Food Service Catering
Associate Director, Union Operations	Union Housekeeping Union Audio Visual Equipment
Director, Housing and Residence Life	Housekeeping within the student housing complex

NOTE: Scheduling building and grounds and parking services for the Arlington Campus are the responsibilities of the staff located at the site.

## PART IX. FEES ASSOCIATED WITH UNIVERSITY FACILITIES AND SERVICES.

### § 9.1. Fees.

A. The fees associated with the use of George Mason University facilities and services are presented in this part. The fees listed are in effect for George Mason University fiscal year 1995, unless noted otherwise.

Increases or decreases in fees listed for the facilities and services must be approved by the Office of the Executive Vice President for Finance and Planning. All increases and decreases in fees are to be submitted to the Director of Auxiliary Enterprises for processing the approval. No fee change shall be implemented without the approval of the Office of the Executive Vice President for Finance and Planning.

B. Academic space is generally available only on weekends during the academic year through the facilities scheduling coordinator for student unions. Academic space during the summer is available on a first-come, first-served basis through the Summer Administration Office. Fees are rarely charged since almost all users are university related. At the Arlington Campus, space is generally available during the day time. In the event fees are charged they are as follows:

Lecture Halls	\$200 per day
Classrooms (Main Campus)	
under 50 seat	\$50 per day
50-100 seats	\$75 per day

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over 100 seats	\$100 per day	
Arlington Campus	Nonprofit Group	Profit Group
3rd floor conference room	\$150 per day	\$250 per day
classroom, 25-50 seats	\$100 per day	\$150 per day
classroom, 50-100 seats	\$125 per day	\$175 per day
classroom, 100+ seats	\$150 per day	\$200 per day
Study lounge	\$100 per day	\$150 per day
Metro Gallery	*\$100 per day	*\$150 per day
*optional		

Additional services for academic space will be charged in a manner similar to student unions.

C. Student union space is scheduled on a priority basis with university groups receiving the highest priorities and nonuniversity groups receiving lower priorities. Reservations are made through the facilities scheduling coordinator of each student union building. The facility and equipment fees for nonuniversity groups are noted below:

	University Group	Nonuniversity
<b>Student Union I</b>		
Phase I Cafeteria	Free	\$ 50/6 hours
Phase II Cafeteria	Free	\$150/6 hours
Rathskeller	Free	\$100/6 hours
North Terrace	Free	\$ 50/6 hours
South Terrace	Free	\$ 50/6 hours
Patriots Lounge	Free	\$150/6 hours
Meeting Room		
A B C	Free	\$ 50/6 hours
Table Space	Free	\$ 50/table or \$ 25/table (sponsored university group)
<b>Student Union II</b>		
Marketplace	Free	\$150/6 hours
Room 1-7	Free	\$ 50/6 hours
VIP 1-3	Free	\$ 50/6 hours
Ballroom A - Back	Free	\$150/6 hours
Ballroom B - Mid	Free	\$150/6 hours
Ballroom C - Front	Free	\$300/6 hours
Ballroom A, B and C Whole	Free	\$500/6 hours
Ballrooms A and B		

Back and Mid	Free	\$250/6 hours
Ballrooms C and B Front and Mid	Free	\$400/6 hours
Table Space	Free	\$ 25/table
TV/VCR	Free	\$ 30/6 hours
16MM projector	Free	\$ 30/6 hours
Lecternette	Free	\$ 20/6 hours
Slide projector	Free	\$ 20/6 hours
Tape recorder	Free	\$ 20/6 hours
Overhead	Free	\$ 20/6 hours
Screen	Free	\$ 10/6 hours
Easels	Free	Free
Large portable sound system	\$ 75/6 hours	\$200/6 hours
Mid portable sound system	\$ 50/6 hours	\$175/6 hours
Small portable sound system	\$ 25/6 hours	\$150/6 hours
Large DJ system	\$ 50/6 hours	\$175/6 hours
Small DJ system	\$ 25/6 hours	\$150/6 hours

For events requiring staff past normally scheduled hours or for extra staff the fees are as noted below:

	University Group	Nonuniversity
Housekeeping	\$15 per hr/person	\$ 20/hr/person
Event Coordinator		
Free event	first-free additional-\$7.50/hr	\$ 7.50/hr \$ 7.50/hr
Charge event	\$7.50/hr/person	\$ 7.50/hr/person

NOTE: Free events are those which are open to any student at George Mason University and which do not charge admission. Charge events are those which charge some type of admission or are open to only a particular group of students.

AV Technician	\$7.50/hr/per person	\$10/hr
Lights	\$15/6 hrs	\$50/6 hrs
Video Taping	\$15/hr (includes tech)	\$50/hr (includes tech)

D. Residential spaces and lounges are not normally available during the academic year. During the summer, however, facility use is available through the Summer Housing Office. Fees are as follows:

Meeting Space

Eisenhower

# Proposed Regulations

large meeting room ..... \$50/day

small meeting room ..... \$25/day

## Hanover

Basement lounge ..... \$50/day

first floor lounge ..... \$25/day

kitchen ..... \$15/day

## Residential Space

Double occupancy ..... \$20/person/day

Single occupancy ..... \$30/person/day

Deluxe townhouse ..... \$45/person/day

Regular townhouse ..... \$25/person/day

E. Meeting space in Mason Hall is not generally available to nonuniversity groups without prior presidential approval.

F. The Concert Hall and Harris Theater are available for use by George Mason University organizations and nonuniversity groups on an as-available basis. All Concert Hall rental requests by individuals or organizations are reviewed by the Institute of the Arts and the university administration. If a rental request is approved, a contract is issued by the Center for the Arts. Receipt of the signed contract and rental deposit finalizes the rental agreement. Harris Theater use requests are handled directly by the Center for the Arts.

Prior to the finalization of any use agreement, appropriate staff members of the Center for the Arts may require one or more on-site meetings to ensure optimum event planning. All necessary staffing and services are provided by the Center for the Arts. This includes technical crew, front-of-house staff, security, custodial services, and box office services.

The box office utilizes a computerized system to print and sell tickets for Concert Hall and Harris Theater events. The box office is open for ticket sales during business hours and in the performance space on the day of the event. Credit cards are accepted.

## HARRIS THEATER

### Seating Capacity:

Orchestra: ..... 397

Balcony: ..... 124

Total: ..... 521

## Handicapped accessibility for orchestra seating

### Stage Specifications:

Proscenium width ..... 39.5 feet

### Stage depth:

To curtain ..... 17 feet

To back wall ..... 35 feet

## CONCERT HALL

### Seating Capacity:

Orchestra: ..... 717

Orchestra Pit: ..... 106

Grand Tier (Balcony): ..... 1112

TOTAL SEATS: ..... 1935

### Handicapped Seating:

Orchestra ..... 26

Grand Tier ..... 6

### Stage Specifications:

Proscenium width ..... 52 feet

Stage depth from curtain line ..... 42 feet

### Stage depth of orchestra shell:

Full Stage ..... 39 feet (60 feet wide)

Chamber Ensemble ..... 22 feet (52 feet wide)

Computerized theatrical lighting and rigging systems

## CONCERT HALL USER FEES:

	GMU	Nonprofit	Commercial
<b>Rental Fee</b>			
First performance	NC	\$3,500	\$5,000
Additional Performances	NC	\$3,000	\$4,500
<b>Box Office Services</b>			
Single day, ea. performance	DBE	\$300	\$350
Subsequent day(s). each performance	DBE	\$200	\$250
<b>Facilities</b>			
Separate tech/reh days	NC	\$500	\$500

# Proposed Regulations

*Personnel (Per person, per hour)*

Stage technicians	\$14	\$14	\$18
Rigger(s)	DBE	DBE	DBE
Dresser(s)	DBE	DBE	DBE
Sound operator/engineer	DBE	DBE	DBE
Lighting control operator	DBE	DBE	DBE
Followspot operator	DBE	DBE	DBE

*Equipment*

Grand Piano (per day)	NC	\$75	\$75
Tuning	\$75	\$75	\$75
Dance Floor (per day)			
Each panel	NC	NC	\$10
Sound System, first day			
Basic System	NC	\$50	\$50
Intermediate System	NC	\$250	\$250
Full System	NC	\$500	\$500
Sound system, each add. day			
Basic System	NC	\$50	\$50
Intermediate System	NC	\$125	\$125
Full System	NC	\$250	\$250
Stage lighting instruments ea. per day	NC	\$1	\$1
Stage lighting control system per day			
Basic System	NC	NC	\$25
Limited System	NC	\$25	\$50
Full System	NC	\$50	\$100
Followspot, ea. per perf.	\$50	\$50	\$50
Installation of supplied light plot	Determined per event		

*Additional Box Office Services*

*Return of printed tickets advanced to licensee - \$.50 ea.*

*Credit card service charge - 7.0% of credit card receipts*

**INCLUDED IN THE RENTAL FEE**

*Facilities and Equipment:*

*Basic black fabric stage masking, orchestra shell, conductor's podium, platform risers, chairs, music stands, stand lights, general white stage lighting, conductor and soloist(s) lighting, and use of dressing*

*rooms (2 small, 3 large).*

*Personnel (included in non-GMU rentals only, GMU rentals pay direct costs for the following personnel.)*

*One stage manager, one front-of-house manager, ushers (quantity determined per event), restroom porters and custodial services, building engineer, and on-site security officers.*

*(DBE = Determined By Event)*

**HARRIS THEATER USER FEES:**

	GMU	Nonprofit	Commercial
<i>Rental Fees</i>			
First Performance	NC	\$1,500	\$1,800
Additional Events (ea.)	NC	\$800	\$1,200
Separate tech/reh days	NC	\$500	\$500
<i>Box Office Services</i>			
Each Event	DBE	\$200	\$250
<i>Equipment</i>			
Sound system, per day	NC	\$50	\$50
Lighting system, per day	NC	\$50	\$50
Follow spot, ea.	\$50	\$50	\$50
Special lighting	Determined by event		
Piano, per day	\$75	\$75	\$75
Tuning, ea.	\$75	\$75	\$75
<i>Personnel (per hr. 3 hr min. ea.)</i>			
Stage technicians	\$14	\$14	\$18
Followspot operator	DBE	DBE	DBE
Rigger(s)	DBE	DBE	DBE
Police/security	DBE	DBE	DBE

*Additional box office services:*

*Return of printed tickets advanced to user - \$.50 ea*

*Credit card service charge (7.0% of credit card receipts)*

**INCLUDED IN THE RENTAL FEE**

*Equipment*

*Basic black fabric stage masking, conductor's podium, chairs, music stands & stand lights, platform risers, general white stage lighting, special conductor and soloist(s) lighting, and use of dressing rooms.*

# Proposed Regulations

Personnel (included in non-GMU rentals only. GMU rentals pay direct costs for the following personnel.)

One stage manager, one front-of-house manager, ushers, custodial service, and building engineer.

(DBE = Determined by event)

## ADDITIONAL ITEMS NOT INCLUDED IN THE (Concert Mode/Theater Mode) BASIC PACKAGE

Rehearsal (not on performance day) ... \$500 per day  
(Includes 2 technicians)

Announce Microphone, Sound System, Limited Foldback ..... \$ 25 per Perf./Reh

Limited Sound System, Tape Playback, Limited Foldback, & Sound Operator ..... \$125 per day

Full Sound System ..... \$350 per day

Sound Operator ..... \$ 24 per hour (4 hr.min.)

Limited Stage Lighting System (12 Channels) ..... \$ 25 per day

Setup/Takedown of Small Light Plot (Theater Mode Only)

Example: 4 stagehands x 4 hours x hourly rate  
..... \$224 (\$14/hr)

Setup/Takedown of Large Light Plot (Theater Mode Only)

Example: 8 stagehands x 8 hours x hourly rate  
..... \$896 (\$18/hr)

Lighting Instruments, Color, Accessories .. No Charge

Light Board Operator (4 hour minimum) ..... \$ 14 per hour

Followspot Operator (4 hour minimum) ..... \$ 14 per hour

Sound Engineer (4 hour minimum) .... \$ 14 per hour

Stagehand, each (4 hour minimum) ... \$ 14 per hour

Rigger, each (4 hour minimum) ..... \$ 24 per hour

Standard Lighting Plot w/light board .. \$ 75 per day

Lighting Instruments (daily charge) ... \$ 1 per instr.

Followspots (daily charge) ..... No Charge

Dance Floor: 4'-11" x 58'-0" per panel ... \$ 5 per day

Dance Floor, Full Stage ..... \$ 50 per day

Floor Setup, Full Stage .. \$112 (ea. setup/takedown)

Choral Platforms, Aluminum, Full Setup ..... \$168 (ea. setup)

Choral Platforms, Steel If Available, Full Setup ..... \$224 (ea. setup)

Choral Chairs, Full Setup ..... No Charge

Piano (tuned) ..... \$ 75 per day

Shuttle Buses (3 buses) ..... \$600

Credit Card Service Charge .... 5.0% of Gross Credit

G. The Sports and Recreation Complex (Field House) is rarely rented out due to the intensive use by students, faculty, and staff. The only regular, nonuniversity events in the Field House are high school track meets. The cost for nonuniversity groups is \$500/day plus direct reimbursable expenses. These would be negotiated with staff at the Field House. If the facility is available, there would be no charge for university groups.

H. The Physical Education Building is used much the same way as the Field House. If it were available, the cost to nonuniversity groups would be \$400/day plus reimbursable for either the upper or lower gym. There would be no charge to university groups.

I. The Patriot Center is a 10,000 seat arena. The fees are as follows:

University Event: Direct expenses, approximately \$4,000-\$5,000 per event. Expenses will vary with the type and number of services requested, number of attendees, and duration of the event.

Nonuniversity Event: Daily rental of \$8,000 plus expenses. Many ticketed events will be charged a rent as a percentage of gross receipts.

J. Hemlock Overlook Center for Outdoor Education is an outdoor education center located near Clifton, Virginia, about 12 miles from campus, and is managed by the university for the Northern Virginia Regional Park Authority. There are no discounts on fees for university groups. The fees are noted below:

Room and board, Summer/Spring ..... \$25 per day

Room and board, Fall/Winter ..... \$30 per day

Room, Summer/Spring ..... \$12 per day

Room, Fall/Winter ..... \$17 per day

# Proposed Regulations

<i>Lodge, Summer/Spring</i> .....	<i>\$10 per hour</i>	<i>\$3 per car for 4 hours or less</i>
<i>Lodge, Fall/Winter</i> .....	<i>\$15 per hour</i>	<i>\$5 per car for 5 hours or more</i>
<i>Conference Rooms, Summer/Spring</i> .....	<i>\$ 5 per hour</i>	
<i>Conference Rooms, Fall/Winter</i> .....	<i>\$10 per hour</i>	

*K. The costs associated with using the university police in connection with special event programming are:*

<i>Police Officer</i> .....	<i>\$22.50/hr (minimum 2 hours)</i>
<i>Dispatcher</i> .....	<i>\$16/hr (minimum 2 hours)</i>
<i>Security Watchman</i> .....	<i>\$15/hr (minimum 2 hours)</i>

*L. All individuals who do not have valid university parking decals or authorized parking permits/passess must pay for parking at locations owned and operated by George Mason University. University schools, colleges, institutes, centers, departments, faculty, staff, and recognized student groups can reserve parking lots at a daily rate for each participant's vehicle without a valid university decal or authorized parking permit/pass. University sponsored events must include parking arrangements approved by the parking services office one week in advance.*

*Authorized nonuniversity sponsored events must include parking arrangements approved by the parking services office two weeks prior to the scheduled event.*

*Parking fees:*

*For all faculty, staff and students vehicles that do not have a valid university parking decal or an authorized parking permit or pass. .... \$ 3 per day*

*To reserve parking lot T*  
 ..... *\$1/hr/vehicle using the lot plus*  
 ..... *\$10/hr/per technician to monitor the lot*

*To reserve specific areas in other general parking lots (Lots A,B,C. & K) for multiple day events*  
 ..... *\$2.50/day/per vehicle for the first day*  
 ..... *\$1.50/day/per vehicle thereafter*

*Nonreserved use of other general parking lots A,B,C. & K for multiple day events*  
 ..... *\$3/day/per vehicle for the first day*  
 ..... *\$2/day/per vehicle thereafter*

*Parking Deck fees for special events*

*M. The Center for Professional Development is located at the University Park Townhouses, 4260 Chain Bridge Road. The center has two classrooms. The larger of the two rooms will accommodate 25 people and is equipped with tables, chairs, and a blackboard. The smaller room will accommodate 15-plus people and has student stations and a blackboard.*

*There is no on-site food service available, although there are vending machines containing soft drinks and snacks.*

*The rooms are available for program use Monday through Friday from 8:30 a.m. to 10 p.m. Space can be available for Saturday and Sunday.*

*The fees are denoted below.*

*University and Non-profit users:*

<i>Per room</i> .....	<i>\$40/half day</i>
<i>Per room</i> .....	<i>\$80/full day</i>
<i>Per room</i> .....	<i>\$40/evening</i>

*Nonuniversity and For-profit users:*

<i>Per room</i> .....	<i>\$60/half day</i>
<i>Per room</i> .....	<i>\$120/full day</i>
<i>Per room</i> .....	<i>\$60/evening</i>

*Additional services and equipment charges:*

<i>Assistant</i> .....	<i>\$15/hour</i>
<i>Set-up/Strike fee</i> .....	<i>\$35/day</i>
<i>Overhead projector</i> .....	<i>\$35/day</i>
<i>Flip charts/easel</i> .....	<i>\$15/day</i>
<i>*photocopying</i> .....	<i>\$0.10/page</i>

*\* Arrangements must be made for this service in advance.*

*N. Arlington Campus: Most credit courses are held in the evening. Therefore, space for noncredit educational programming can be scheduled by outside groups such as government agencies or private sector corporations during the day by the Professional Center. Government agencies can secure training space and educational services through agency contracts, blanket purchase agreements, purchase orders, etc. Private corporations can secure space through a letter of agreement and a 50% deposit.*



# Proposed Regulations

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Arlington Campus is located one and one-half blocks from the George Mason University/Virginia Square Metro Station. Food Service is available on campus.

The building hours and fees are:

**Building Hours:**

- Monday-Friday ..... 8 a.m. to 11 p.m.
- Summer ..... 8 am to 10 p.m.
- Saturday ..... 9 am to 6 p.m.
- Sunday ..... 9 am to 11 p.m.

University Support Charges will be assessed. Building operating charges for electrical, HVAC, parking and security will be charged, where applicable.

**Seminar Room Fees:**

- Classrooms- accommodate 15-50 people
  - ..... Non-profit: \$100 per day/evening
  - ..... Profit: \$150 per day/evening
- Computer Lab- accommodates 24 people
  - ..... \$500 per day/evening
- Conference Room- accommodates 150+
  - ..... Non-profit: \$150 per day/evening
  - ..... Profit: \$250 per day/evening

**Management Fees:**

- Assistant Fee ..... \$15 per hour
- Set-up and Strike (when applicable) ..... \$60-\$100
- Building and Grounds early open/late close
  - ..... \$20 per hour
- Campus police (early open/late close)
  - ..... \$22.50 per hour
  - ..... (2 hours minimum)

**Equipment User Fees:**

- VCR/Monitor
  - ..... \$50 for first day, \$25 per day thereafter
- Slide Projector

- ..... \$30 for first day, \$20 per day thereafter
- 16mm Film Projector
  - ..... \$30 for first day, \$20 per day thereafter
- P/A System
  - ..... \$75 for first day, \$50 per day thereafter
- Coffee Urns
  - ..... \$15 for first day, \$ 5 per day thereafter
- Photocopying
  - ..... Available - copy center on site: \$ .10 a copy
- Kodak Datashow ..... \$50 per day
- Inkjet Computer Paper ..... \$40 per box
- Flipchart Paper ..... Provided by the instructor
- Fax Service, per page
  - ..... University Departments: incoming \$ .50
  - ..... outgoing \$1
  - ..... nonuniversity: incoming \$1
  - ..... outgoing \$2.50
- Flipchart stands, overhead projectors, screens, chalkboards, and chalk are provided in each classroom.

O. GMU at Quincy Street Station: Most credit courses are held in the evening. Therefore, space for noncredit educational programming can be scheduled by outside groups such as government agencies or private sector corporations by the Professional Center. Government agencies can secure training space and educational services through agency contracts, blanket purchase agreements, purchase orders, etc. Private corporations can secure space through a letter of agreement and a 50% deposit.

Quincy Street station is located one and one-half blocks from the Ballston Metro Station. Food Service is available.

The building hours and fees are denoted below.

**Building Hours:**

- Monday-Friday ..... 8 a.m. to 9 p.m.

Special arrangements can be made for Saturday and Sunday use of the facility by reservation. Also, the facility can open early and close late, by

# Proposed Regulations

reservation. University support charges will be assessed. Building operating charges for electrical, HVAC, parking and security will be charged, where applicable.

*Seminar Room Fees:*

Classrooms- accommodate 15-45 people  
 ..... Non-profit: \$125 per day/evening  
 ..... Profit: \$165 per day/evening  
 accommodate 70 people  
 ..... Non-profit: \$150 per day/evening  
 ..... Profit: \$165 per day/evening

*Management Fees:*

Assistant Fee ..... \$15 per hour  
 Set up and Strike (when applicable) ..... \$60-\$100

*Equipment User/Additional Fees:*

VCR/Monitor ..... \$50 for first day  
 ..... \$25 per day thereafter  
 Slide Projector ..... \$30 for first day  
 ..... \$20 per day thereafter  
 Coffee Urns ..... \$15 for first day  
 ..... \$ 5 per day thereafter  
 Photocopying ..... Available: \$ .10 a copy  
 Flip Chart Paper ..... Provided by the instructor  
 Fax Service, per page  
 ..... University Departments: incoming \$ .50  
 ..... outgoing \$1  
 ..... nonuniversity: incoming \$1  
 ..... outgoing \$2.50

Flipchart stands, overhead projectors, screens, chalkboards, and chalk are provided in each classroom.

*P. Prince William Institute: Initially, most credit courses will be held in the evenings. Noncredit programming can be scheduled by university and nonuniversity groups during the day time.*

The building hours and fees are denoted below:

*Building Hours:*

Monday-Friday ..... 8:30 a.m. to 5 p.m.

Special arrangements can be made for evening and weekend use of facilities by reservation. Building operating fees for HVAC and electrical services will be charged, when applicable.

*Seminar Room Fees:*

Classrooms - accommodate 15-45 people  
 ..... Non-profit: \$50 per day and/or evening  
 ..... Profit: \$75 per day and/or evening

*Management Fees:*

Assistant Fee ..... \$12 per hour  
 Set-up Fee and Strike (where applicable) ... \$40-\$80

*Equipment User/Additional Fees:*

VCR/Monitor (2 available) ... \$25 per day per room  
 Slide Projector (2 available) . \$20 per day per room  
 Coffee Urn (1 available) 100 cup capacity  
 ..... \$15 for first day  
 ..... \$ 5 per day thereafter  
 Photocopying ..... Available: \$ .10 a copy  
 Fax ..... Available: \$1 per page  
 Flip Chart Paper ..... Provided by the user  
 Fax Machine  
 ..... University Departments: incoming \$ .50  
 ..... outgoing \$1  
 ..... Nonuniversity: incoming \$1  
 ..... outgoing \$2.50

Flipsehart stands, overhead projectors, screens, whiteboards, and markers are provided in each classroom.

*Q. The third floor space at the George Mason University at The Center for Innovative Technology is dedicated to the George Mason University Small Business Incubator Program. The fourth floor spaces are used for*

# Proposed Regulations

credit and noncredit educational programming. The largest classroom on the fourth floor is assigned all day Fridays and Saturdays for a credit educational program.

The building hours and fees are:

**Building Hours:**

Monday-Friday ..... 8 a.m. to 6 p.m.

Special arrangements can be made for evening and weekend use of facilities by reservations. Building operating fees for HVAC, electrical, and security will be charged, where applicable.

**Seminar Room Fees:**

Classrooms- accommodate 15-45 people  
 ..... Non-profit: \$100 per day/evening  
 ..... Profit: \$125 per day/evening

**Management Fees:**

Assistant Fee ..... \$15 per hour  
 Set-up Fee and Strike (where applicable) . \$60-\$100

**Equipment User/Additional Fees:**

VCR/Monitor ..... \$50 for first day  
 ..... \$25 per day thereafter  
 Slide Projector ..... \$30 for first day  
 ..... \$20 per day thereafter  
 Coffee Urns ..... \$15 for first day  
 ..... \$ 5 per day thereafter  
 Overhead Projector ..... \$25 for first day  
 ..... \$15 per day thereafter  
 Photocopying ..... Available: \$ .10 a copy  
 Flip Chart Paper ..... Provided by instructor

Flipchart stands, overhead projectors, screens chalkboards, and chalk are provided in each classroom.

VA.R. Doc. No. R95-20; Filed September 15, 1994, 4:04 p.m.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**NOTICE:** The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

**Title of Regulation:** VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

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

**Public Hearing Date:** November 3, 1994 - 10 a.m.  
 Written comments may be submitted until November 3, 1994.  
 (See Calendar of Events section for additional information)

**Basis:** Section 36-55.30:3 of the Code of Virginia authorizes the authority to adopt, amend and repeal regulations to carry into effect the powers and purposes of the authority.

**Purpose:** The purpose of the proposed amendment is to reduce the frequency of income and eligibility verification imposed on tenants and owners of multi-family developments financed by the authority.

**Substance:** The proposed amendment changes the requirement that the authority re-examine and redetermine the income and eligibility of occupants of multi-family dwelling units from every two years to every three years.

**Issues:** The proposed amendment will reduce the paperwork burden on owners and tenants of multi-family developments financed by the authority. Few tenants subject to re-examination are determined to be no longer eligible for occupancy in the development. However, members of the public may be of the opinion that the existing two year recertification requirement provides better assurance that units are occupied by eligible tenants.

**Impact:** The authority expects that the proposed amendment will result in less paperwork and costs by owners, tenants and the authority in monitoring occupancy of multi-family housing developments funded by the authority. The authority does not expect that any costs will be incurred for the implementation of and compliance with the proposed amendment. The authority is not aware of any localities that will be particularly affected by the proposed amendment.

**Summary:**

*The proposed amendment changes the requirement that the authority re-examine and redetermine the income and eligibility of occupants of multi-family dwelling units from every two years to every three years.*

# Proposed Regulations

VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

## § 1. Definitions.

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

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24 et seq.) of Title 36 of the Code of Virginia.

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to \$1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of \$1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; (v) a credit in an amount equal to such person or family's medical expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of \$2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority may provide in its rules and regulations that the adjusted family income shall be computed, for the purpose of determining eligibility for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the applicable rules and regulations of the authority, only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the applicable rules and regulations of the authority) rather than in the manner provided in the preceding sentence.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm,

association, public body or other legal entity or any combination thereof, making application to receive an authority mortgage loan or other assistance under the Act.

"Application" means a request for an authority mortgage loan or other assistance under the Act.

"Authority" means the Virginia Housing Development Authority.

"Authority mortgage loan" or "mortgage loan" means a loan which is made or financed or is to be made or financed, in whole or in part, by the authority pursuant to these rules and regulations and is secured or is to be secured by a mortgage.

"Board" means the Board of Commissioners of the authority.

"Dwelling unit" or "unit" means a unit of living accommodations intended for occupancy by one person or family.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"FHIA" means the Federal Housing Administration and any successor entity.

"For-profit housing sponsor" means a housing sponsor which is organized for profit and may be required by the authority to agree to limit its profit in connection with the sponsorship of authority financed housing in accordance with the terms and conditions of the Act and these rules and regulations and subject to the regulatory powers of the authority.

"Gross family income" or "gross income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. Gross monthly income is the sum of monthly gross pay ; plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income ; plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

"Household" means, in the context of the financing of a single family dwelling unit, two or more individuals living together on the premises as a single nonprofit housekeeping unit.

"Multi-family dwelling unit" means a dwelling unit in multi-family residential housing.

# Proposed Regulations

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*"Nonprofit housing sponsor"* means a housing sponsor which is organized not for profit and may be required by the authority to agree not to receive any limited dividend distributions from the ownership and operation of a housing development.

*"Person"* means:

1. An individual who is 62 or more years of age;
2. An individual who is handicapped or disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; or
3. An individual who is neither handicapped nor disabled nor 62 or more years of age; provided that the board may from time to time by resolution (i) limit the number of, fix the maximum number of bedrooms contained in, or otherwise impose restrictions and limitations with respect to single family dwelling units that may be financed by the authority for occupancy by such individuals and (ii) limit the percentage of multi-family dwelling units within a multi-family residential housing development that may be made available for occupancy by such individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

*"Rent"* means the rent or other occupancy charge applicable to a dwelling unit within a housing development operated on a rental basis or owned and operated on a cooperative basis.

*"Reservation"* means the official action, as evidenced in writing, taken by the authority to designate a specified amount of funds for the financing of a mortgage loan on a single family dwelling unit.

*"Single family dwelling unit"* means a dwelling unit in single family residential housing.

The foregoing words and terms, when used in any other rules and regulations of the authority, shall have the same meaning as set forth above, unless otherwise defined in such rules and regulations. Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act.

## § 2. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or household, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be

necessary or appropriate for the administration of its programs. Such resolution or rules and regulations shall specify whether the person's or household's income shall be calculated as adjusted family income or gross income. To be considered eligible for the financing of a single family dwelling unit, a person or household shall not have an adjusted family income or gross income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross income, as applicable, household composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than (i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by rules and regulations, lower income limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by rules and regulations; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above.

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every ~~two~~ *three* years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income

and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

### § 3. Forms.

Forms of documents, instruments and agreements to be employed with respect to the processing of applications, the making or financing of loans under these rules and regulations, the issuance and sale of authority notes and bonds, and any other matters relating to such loans and the implementation and administration of the authority's programs shall be prepared, revised and amended from time to time under the direction and control of the executive director.

### § 4. Interest rates.

The executive director shall establish the interest rate or rates to be charged in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan.

Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this § 4 shall reflect the intent expressed in subdivision 3 of subsection A of § 36-55.33:1 of the Code of Virginia.

### § 5. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the authority assists in the administration of any federal program, the applicable federal law and rules and regulations shall be controlling over any inconsistent provision hereof.

### § 6. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

B. The board by resolution may authorize the acceptance by the authority of gifts, grants, loans, contributions or other aid, including insurance and guarantees, from the federal government, the Commonwealth of Virginia or any agency thereof, or any other source in furtherance of the purposes of the Act, do any and all things necessary in order to avail itself of such aid, agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guarantees or other aid may be made, and authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance guarantees or other aid.

C. Without limitation on the provisions of subsection B of this section, the board by resolution may authorize the acceptance by the authority of any insurance or guarantee or commitment to insure or guarantee its bonds or notes and any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise, and may authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate with respect thereto.

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## § 7. Assistance of mortgage lenders.

The authority may, at its option, utilize the assistance and services of mortgage lenders in the processing, originating, disbursing and servicing of loans under these rules and regulations. The executive director is authorized to take such action and to execute such agreements and documents as he shall deem necessary or appropriate in order to procure, maintain and supervise such assistance and services. In the case of authority mortgage loans to be financed from the proceeds of obligations issued by the authority pursuant to § 36-55.37:1 of the Code of Virginia, the authority shall be required to, *if and to the extent required thereby*, utilize such assistance and services of mortgage lenders in the origination and servicing of such authority mortgage loans.

## § 8. Purchase of mortgage loans.

A. The authority may from time to time, pursuant and subject to its rules and regulations, purchase mortgage loans from mortgage lenders. In furtherance thereof, the executive director may request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this section that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this section, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be invested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this section shall be established in accordance with subdivision (2) of § 36-55.35 of the Code of Virginia.

## § 9. Waiver.

The executive director may for good cause in any particular case waive or vary any of the provisions of these rules and regulations to the extent not inconsistent with the Act or with other applicable provisions of law.

## § 10. Amendment.

These rules and regulations may be amended and supplemented by the board at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

## § 11. Separability.

If any clause, sentence, paragraph, section or part of these rules and regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

VA.R. Doc. No. R95-26; Filed September 28, 1994, 10:58 a.m.

\* \* \* \* \*

**Title of Regulation:** VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.

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

**Public Hearing Date:** November 3, 1994 - 10 a.m.

Written comments may be submitted until November 3, 1994.

(See Calendar of Events section for additional information)

**Basis:** Section 36-55.30:3 of the Code of Virginia authorizes the authority to adopt, amend and repeal regulations to carry into effect the powers and purposes of the authority.

**Purpose:** The purpose of the proposed amendments is to simplify and expedite the processing of multi-family loan applications.

**Substance:** The proposed amendments (i) provide for changes in the processing of multi-family loan applications, (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications, (iii) simplify various provisions and (iv) make minor clarifications and corrections. Processing changes in the proposed amendments include (a) earlier action by the authority's board on multi-family loan proposals, (b) eliminating unnecessary provisions regarding solicitation of proposals, (c) providing for greater flexibility in the approval of mortgage loan increases, (d) deleting references to the housing management handbook, which is no longer maintained by the authority, (e) eliminating th

requirement for general partners in a partnership mortgagor to retain a 10% interest in net proceeds from any sale, refinancing or other disposition of a development, (f) removing detailed descriptions of those documents to be submitted with loan applications and (g) deleting authorization to establish occupancy criteria and priorities.

Issues: The proposed amendments will streamline the processing of multi-family loans and will eliminate unnecessary or obsolete requirements. The authority is not aware of any programmatic disadvantages for the public which would result from the adoption of the proposed amendments. Although the authority does not believe that any of these changes will adversely affect the success of its multi-family rental program, members of the public may be of the opinion that the current process and requirements should remain the same to avoid any disruption or other adverse changes in the program.

Impact: The authority expects that the proposed amendments will result in more expeditious and efficient processing of multi-family loan applications. The authority does not expect that any costs will be incurred for the implementation of and compliance with the proposed amendments. The authority is not aware of any localities that will be particularly affected by the proposed amendments.

Summary:

*The proposed amendments (i) provide for changes in the processing of multi-family loan applications, (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications, (iii) simplify various provisions, and (iv) make minor clarifications and corrections.*

VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.

§ 1. Purpose and applicability.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to mortgagors to provide the construction and/or permanent financing of multi-family housing developments (including any such developments to be owned and operated on a cooperative basis) intended for occupancy by persons and families of low and moderate income ("development" or "developments"). These rules and regulations 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 Act. These rules and regulations shall not, however, apply to any developments which are subject to any other rules and regulations adopted by the authority. If any mortgage loan is to provide either the construction or permanent

financing (but not both) of a development, these rules and regulations 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 rules and regulations 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.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

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 and covenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations 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 6 of these rules and regulations.

These rules and regulations 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 rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations 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.



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Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than (i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the authority's rules and regulations authorize its board to establish from time to time by resolution and by rules and regulations lower income limits for initial occupancy; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. Income limits are established below in these rules and regulations in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above.

In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in, and subject to the provisions of, §§ ~~11 and 14~~ 10 and 13 of these rules and regulations), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed 80% of the area median gross income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed (i) in the case of units for which the board has approved the mortgage loan prior to November 15, 1991, 150% of such area median gross income as so determined or (ii) in the case of units for which the board has approved the mortgage loan on or after November 19 15, 1991, 115% of such area median gross income as so determined. The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy shall be as set forth in (i) or (ii), as applicable, in the preceding sentence (or, in the case of units described in (i) in the preceding sentence, such lesser income limit equal to seven times the annual rent, including utilities except telephone, applicable to such dwelling units).

The board may establish, in the resolution authorizing any mortgage loan to finance a development under these rules and regulations, income limits lower than those provided herein or in the authority's rules and regulations for the occupants of the units in such development.

Furthermore, in the case of developments which are

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

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

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

## § 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.

The categories of cost which shall be allowable by the authority in the acquisition and construction of a development financed under these rules and regulations shall include the following: (i) construction costs, including equipment, labor and materials furnished by the mortgagor, contractor or subcontractors, general requirements for job supervision, an allowance for office overhead of the contractor, building permit, bonds and letters of credit to assure completion, water, sewer and other utility fees, and a contractor's profit or a profit and risk allowance in lieu thereof; (ii) architectural and engineering fees; (iii) interest on the mortgage loan; (iv) real estate taxes, hazard insurance premiums and mortgage insurance premiums; (v) title and recording expenses; (vi) surveys; (vii) test borings; (viii) the authority's *processing fees and financing fees*; (ix) legal and accounting expenses; (x) in the case of a nonprofit housing sponsor, organization and sponsor expenses, consultant fees, and a reserve to make the development operational; (xi) off-site costs; (xii) the cost or fair market value of the land and any improvements thereon to be used in the development; (xiii) tenant relocation costs; (xiv) operating reserves to be funded from proceeds of the mortgage loan; and (xv) ~~and~~ such other categories of costs which the executive director shall determine to be reasonable and necessary for the acquisition and construction of the development. The extent to which costs in any of such categories shall be allowable in respect of a specific development and includable in the housing development costs thereof as determined by the authority at final closing shall be governed by the terms of the authority's cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide"). The executive director is authorized to prepare and from time to time revise the cost certification guide. Copies of such guide shall be available upon request. Upon completion of the acquisition and construction of the development, the total of the housing development costs shall be certified to the authority in accordance with these rules and regulations and the cost certification guide, subject to the review and determination of the authority. In lieu of such certification of housing

development costs, the executive director may require such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

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 processing fee and 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 in such amounts as the executive director determines to be reasonable. Such fee fees shall be payable at such times as hereinafter provided or at such other times as required by 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. 4. 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

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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 *need for such housing at rentals or prices which persons and families of low and moderate income can afford within the general housing market area to be served by 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. 1. 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. 2. Subject to further review and evaluation by the authority's staff under § 6 5 of these rules and regulations, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. 3. Subject to further review and evaluation by the authority's staff under § 6 5 of these rules and regulations, 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 suc'

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

9. 4. 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 rules and regulations.

12. 5. 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. 6. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 5 of these rules and regulations 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, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these rules and regulations 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.

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.

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 rules and regulations. If the executive director determines that the above criteria are satisfied, he will recommend further processing of the application and shall present his recommendation to the board. If the executive director determines that one or more of the above criteria are not satisfied, he may nevertheless, in his discretion, recommend to the board that the application be approved and that the mortgage loan and issuance of the commitment therefor be authorized subject to satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. The board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the mortgage loan and the issuance of a commitment therefor, subject to the further review in § 5 of these rules and regulations and such terms and conditions as the board shall require in such resolution.

A resolution authorizing a mortgage loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the development, expressed as a percentage of such for-profit housing sponsor's equity in such development (such equity being established in accordance with § 8 of these rules and regulations), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative and shall establish the manner, if any, for adjusting the equity in accordance with § 8 of these rules and regulations.

A mortgage loan shall not be authorized by the board unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the mortgage loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the mortgage loan.

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 not to recommend approval of the application, he shall so notify the applicant.

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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. 5. 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: *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.*

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 proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) the proposed rent structure; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local government agencies or community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priorities among eligible tenant applicants.

5. The applicant's management and marketing plans, including description and analysis of strategies, techniques and procedures to be followed in marketing and managing the units; and

6. 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.

*If not previously obtained*, 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 *or approved* 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 application*, the documents and information received or obtained pursuant to § 4 and this § 6 5. 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

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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 approve the issuance of 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. 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 environmental or other 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 design of the proposed development will contribute to the marketability of the proposed development: make use of materials to reduce energy and maintenance costs; provide for a proper mix of units for the residents intended to be benefited by the authority's program; provide for units with adequate, well-designed space; include 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.*

~~4. 6. Based on the data and information received or obtained pursuant to this § 6 5, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 4 of these rules and regulations.~~

~~2. 7. 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. 8. 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. 9. 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. 10. 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~~

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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. 11. 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. 12. 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. 13. The units will be occupied by persons and families intended to be served by the proposed development and qualified hereunder and under the Act, 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. 14. 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 and costs will not have a materially adverse effect on the occupancy of the units in accordance with item 8 13 above.

10. 15. The architectural drawings, plans and specifications or other description of the work to be performed 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 5 .

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

12. 17. 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 rules and regulations.

13. 18. The marketing and tenant selection plans submitted by the applicant shall comply with these 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 13 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 rules and regulations)~~ 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. 19. 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. 20. 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. 21. 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. 22. The proposed development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

18. 23. 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 *approve the issuance of a commitment*, 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 mortgage loan and the issuance of a commitment therefor, subject to such terms and conditions as the board shall require in such resolution.

The term of the mortgage loan, the amortization period, the estimated housing development costs, the principal amount of the mortgage loan, the terms and conditions applicable to any equity contribution by the applicants, any assurances of successful completion and operational stability of the proposed development, and other terms and conditions of such mortgage loan shall be set forth in the board's resolution authorizing such mortgage loan or in the commitment issued on behalf of the authority pursuant to such resolution. The resolution or commitment shall also include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed development, the marketing and occupancy of the proposed development (including any income limits or occupancy restrictions other than those set forth in these rules and regulations), the disbursement and repayment of the mortgage loan, and other matters related to the construction and the ownership, operation and occupancy of the proposed development. Such resolution or commitment may include a financial analysis of the proposed development, setting forth the initial schedule of rents, the approved initial budget for operation of the proposed development and a schedule of the estimated housing development costs. Such a resolution authorizing a mortgage loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the development, expressed as a percentage of such for-profit housing sponsor's equity in such development (such equity being established in accordance with § 9 of these rules and regulations); which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative and shall establish the manner, if any, for adjusting the equity in accordance with § 9 of these rules and regulations.

A mortgage loan shall not be authorized by the board unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the mortgage loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the mortgage loan.

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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. 6. 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 *processing and financing fee fees*, 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 *prior to or* 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- 7. 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- 8. 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:

1. The total development costs, 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.

The equity investment of the mortgagor shall be the difference between the total housing development costs of the development as finally determined by the authority and the final principal amount of the mortgage loan as to such development. 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. 9. 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 these rules and regulations. 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 subdivision 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, these 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

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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 rules and regulations.

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 these 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 these rules and regulations. Any increase in excess of such 2.0% shall require the approval of the board.

*The authority may consider and, where appropriate, approve a mortgage loan increase if determined by the authority to be in its best interests in protecting its security for the mortgage loan. Any such mortgage loan increase shall require the approval of the board and shall be subject to such terms and conditions as the board or the executive director may require. 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. 10. 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. The mortgagor shall execute such other documents with regard to the regulation of the development and the mortgagor as the executive director may determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act

and these rules and regulations.

Except as otherwise agreed by the authority pursuant to § 14 13 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 rules and regulations.

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 rules and regulations. 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;

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 5 of these rules and regulations.

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, these 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 section .

## § 12: 11. 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 11 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 FHA mortgage insurance, it being the policy of the authority to consent to any such transfer approved by FHA 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, to the extent applicable or requested by the authority, (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;

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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 the U.S. Department of Housing and Urban Development or any successor entity ("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~~ *may* 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 *, if any,* 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~~ *may be* prohibited by the authority's bond resolution and, ~~therefore if so prohibited~~ , 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 these 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 *from a nonprofit owner to a for-profit owner* , 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 these 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 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 *or by the executive director*. 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. 12. 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 12 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 12 shall be subject to modification pursuant to § 14 13 hereof.

## § 14. 13. Modification of regulatory controls and mortgage loan.

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 rules and regulations, and (iii) such limitations on rent increases to existing

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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 12 of these rules and regulations, 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.

Upon a determination by the executive director as described in (i), (ii) and (iii) above in this section, the authority may also approve an increase in the principal amount of its mortgage loan or a restructuring of such mortgage loan (such as a modification of the mortgage loan by conversion thereof into an obligation guaranteed by a federal agency or instrumentality), subject to such terms and conditions as the authority ~~shall~~ may require, including (but not limited to) one or more of the following:

1. Compliance with the conditions and limitations in the Act and the authority's rules and regulations and with any applicable federal law and regulations and any agreements governing federal subsidy, assistance or mortgage insurance;

2. The ability of the authority to sell bonds to finance any mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only if any such mortgage loan increase is to be financed by the authority from proceeds of its bonds);

3. A determination by the authority that the rents shall remain affordable to persons and families of low and moderate income to be served by the development and that the mortgage loan increase or restructuring and any increase in debt service will have no material adverse effect on the financial security of its mortgage loan or proper operation and maintenance of the development;

4. If the development receives federal subsidy or assistance or is subject to federal mortgage insurance, assurances satisfactory to the authority that such mortgage loan increase or restructuring and any increase in debt service are permissible under applicable federal law and regulations and will not adversely affect the term or amount of any federal subsidy or assistance or the coverage of any mortgage insurance and that any federal subsidy or assistance may be applied to pay any increase in debt service;

5. Such terms and conditions as the authority shall require in order to protect the security of its mortgage loan; to reimburse the authority for costs and expenses that may result from such mortgage loan increase or restructuring; to comply with covenants and agreements with, and otherwise to protect the interests of, the holders of its bonds issued to finance the mortgage loan or any increase thereof; and to carry out its public purpose.

Upon a determination as described in (i), (ii) and (iii) above in this section, the executive director may also approve a release of moneys held in the reserve funds of the development in such amount as he shall determine to be in excess of the amount required to assure the proper operation and maintenance of the development.

The executive director may require that all or a portion of the proceeds from any increase or restructuring of the mortgage loan or from any release of reserve funds be applied, in such manner and amount and on such terms and conditions as he shall deem necessary or appropriate, for improvements to the development or for providing additional housing for persons and families of low and moderate income.

The authorizations in this section for modifications of regulatory reserve funds shall be cumulative and shall not be exclusive of each other. Accordingly, the authority, in its discretion, may elect to exercise for any development one or more or all of such authorizations.

VA.R. Doc. No. R95-27; Filed September 28, 1994, 10:59 a.m.

# Proposed Regulations

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**Title of Regulation:** VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.

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

**Public Hearing Date:** November 3, 1994 - 10 a.m.

Written comments may be submitted until November 3, 1994.

(See Calendar of Events section for additional information)

**Basis:** Section 36-55.30:3 of the Code of Virginia authorizes the authority to adopt, amend and repeal regulations to carry into effect the powers and purposes of the authority.

**Purpose:** The purpose of the proposed amendments is to simplify and expedite the processing of loan applications for multi-family housing developments for mentally disabled persons.

**Substance:** The proposed amendments (i) provide for changes in the processing of multi-family loan applications for such developments, (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications, (iii) simplify various provisions and (iv) make minor clarifications and corrections. Processing changes in the proposed amendments include (a) earlier action by the authority's board on loan proposals for such developments, (b) eliminating unnecessary provisions regarding solicitation of proposals, (c) providing for greater flexibility in the approval of mortgage loan increases and (d) removing detailed descriptions of those documents to be submitted with loan applications.

**Issues:** The proposed amendments will streamline the processing of loan applications for multi-family housing developments for mentally disabled persons and will eliminate unnecessary or obsolete requirements. The authority is not aware of any programmatic disadvantages for the public which would result from the adoption of the proposed amendments. Although the authority does not believe that any of these changes will adversely affect the success of its multi-family rental program, members of the public may be of the opinion that the current process and requirements should remain the same to avoid any disruption or other adverse changes in the program.

**Impact:** The authority expects that the proposed amendments will result in more expeditious and efficient processing of loan applications for multi-family developments for mentally disabled persons. The authority does not expect that any costs will be incurred for the implementation of and compliance with the proposed amendments. The authority is not aware of any localities that will be particularly affected by the proposed amendments.

## Summary:

*The proposed amendments (i) provide for changes in the processing of multi-family loan applications for such developments, (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications, (iii) simplify various provisions and (iv) make minor clarifications and corrections.*

VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.

## § 1. Definitions.

"Closing" means the time of execution by the mortgagor of the documents evidencing the M/D loan, including the deed of trust note, deed of trust and other documents required by the authority. (In the case of a construction loan, "closing" means the initial closing of the M/D loan.)

"Construction" means construction of new structures and the rehabilitation, preservation or improvement of existing structures.

"DMHMR" "DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services of the Commonwealth of Virginia.

"Final closing" means, for a construction loan, the time of final disbursement of the M/D loan proceeds after satisfaction by the mortgagor of all of the authority's requirements therefor.

"M/D development" means a multi-family housing development intended for occupancy by persons of low and moderate income who are mentally disabled.

"M/D loan" means a mortgage loan made by the authority to finance the development, construction, rehabilitation and/or the ownership and operation of an M/D development.

"Seed loan" means a mortgage loan made by the authority to finance preconstruction or other related costs approved by the authority and the financing of which by the authority is determined by the authority to be necessary to the mortgagor's ability to obtain an M/D loan for the construction of an M/D development.

## § 2. Purpose and applicability.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to mortgagors to provide the construction and/or permanent financing of M/D developments. These rules and regulations shall be applicable to the making of such M/D loans directly by the authority to mortgagors, the purchase of such M/D loans, the participation by the authority in such M/D loans with mortgage lenders and any other



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manner of financing of such M/D loans under the Act. These rules and regulations shall not, however, apply to any M/D developments which are subject to any other rules and regulations adopted by the authority. If any M/D loan is to provide either the construction or permanent financing (but not both) of an M/D development, these rules and regulations shall be applicable to the extent determined by the executive director to be appropriate for such financing. In addition, notwithstanding the foregoing, the executive director may, in his discretion, determine that any M/D loan should be processed under the authority's Rules and Regulations for Multi-Family Housing Developments, whereupon the application for such M/D loan and any other information related thereto shall be transferred to the authority's multi-family division for processing under the aforementioned multi-family rules and regulations.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any M/D development to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Act and covenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations 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 closing documents as described in § 8 7 of these rules and regulations.

These rules and regulations are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of M/D loans under the authority's multi-family housing programs for M/D developments. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time with respect to any particular development or developments or any multi-family housing program or programs for M/D developments.

### § 3. Income limits and general restrictions.

The amounts payable, if any, by persons occupying M/D developments are deemed not to be rent. As a result, the authority's income limit set forth under its rules and regulations limiting a person's or family's adjusted family income to an amount not greater than seven times the

total annual rent is inapplicable. In accordance with the authority's rules and regulations, the income limits for persons occupying such developments shall be as follows: All units of each M/D development, with the sole exception of those units occupied by an employee or agent of the mortgagor, shall be occupied or held available for occupancy by persons who are mentally disabled and who have adjusted family incomes (as defined in the authority's rules and regulations and as determined at the time of their initial occupancy of such units and at the time of reexamination and redetermination of such persons' adjusted family incomes and eligibility subsequent to their initial occupancy of such units) which do not exceed (i) in the case of units in a M/D development for which the board approved the mortgage loan prior to November 15, 1991, 150% of the applicable area median gross income as determined by the authority and (ii) in the case of units in a M/D development for which the board approved the mortgage loan on or after November 15, 1991, 115% of the applicable area median gross income as determined by the authority.

The board may establish, in the resolution authorizing any mortgage loan to finance an M/D development under these rules and regulations, income limits lower than those provided herein for the occupants of the units in such M/D development.

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

Notwithstanding anything to the contrary herein, all M/D developments and the processing thereof under the terms hereof must comply with (i) the Act and the authority's rules and regulations, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such M/D developments, and (iii) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the M/D developments. Copies of the authority's applicable note and bond resolutions, if any, are available upon request.

### § 4. 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 M/D developments. The term of the mortgage loan

shall be equal to (i) if the M/D loan is to finance the construction of the proposed M/D development, the period determined by the executive director to be necessary to: (1) complete construction of the M/D development, and (2) consummate the final closing of the M/D loan; plus (ii) if the M/D loan is to finance the ownership and operation of the proposed M/D development, an amortization period set forth in the M/D 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 assistance or subsidy.

M/D 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 M/D loan commitment (which amount shall in no event exceed 95% of the fair market value of the property as determined by the authority) or such percentage of the housing development costs of the M/D 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 maximum principal amount specified in the M/D loan commitment (which amount shall in no event exceed 100% of the fair market value of the property as determined by the authority in those cases in which the nonprofit sponsor is the Commonwealth of Virginia or any agency or instrumentality thereof, and which shall in no event exceed 95% of the fair market value of the property as determined by the authority in those cases in which the nonprofit sponsor is not the Commonwealth of Virginia or an agency or instrumentality thereof) or such percentage of the housing development costs of the M/D 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 M/D 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 M/D loan and the fulfillment of its public purpose. Such factors may include the economic feasibility of the proposed M/D development in terms of its ability to pay the projected debt service on the M/D loan and the projected operating expenses of the proposed M/D development.

The categories of cost which shall be allowable by the authority in the acquisition and construction of an M/D development financed under these rules and regulations shall include all reasonable, ordinary and necessary costs and expenses (including, without limitations, those categories of costs set forth in the authority's rules and regulations for multi-family housing developments) which are incurred by the mortgagor in the acquisition and construction of the M/D development. Upon completion of the acquisition and construction of the M/D development, the total of housing development costs shall be certified to the authority in accordance with these rules and regulations, subject to the review and determination of the authority. In lieu of such certification of housing

development costs, the executive director may require such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

The interest rate on the M/D loan shall be established at the closing and may be thereafter adjusted in accordance with the authority's rules and regulations and the terms of the deed of trust note. The authority shall charge a *processing fee and a financing fee equal to 1.5%* of the M/D loan amount, *unless the executive director shall for good cause require the payment of a different financing fee in such amounts as the executive director determines to be reasonable*. Such fee fees shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require *required by the executive director*.

#### § 5. 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 M/D 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 M/D 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 M/D developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

#### § 6. 5. Application and review *acceptance for processing*.

##### A. Information to be submitted.

Application for an M/D 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: *a determination by DMHMRSAS on such form or forms as the executive director may from time to time prescribe to the effect that (i) the mortgagor has the intent and ability to provide the services deemed necessary by DMHMRSAS for the success of a housing development intended for occupancy by persons of low and moderate income who are mentally disabled, (ii) that the proposed location and*

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*type of housing are suitable for the contemplated residents and that there exists a need in the area of the proposed location for housing for the mentally disabled, and (iii) that the development is economically feasible to the extent that it is projected to have or receive funds in an amount sufficient to pay the debt service on the proposed M/D loan and to pay for all of the requisite services deemed necessary by DMHMRSAS for the success of such a development (for those M/D developments which are to receive funding other than that directly from the mortgagor, a breakdown of the source and amount of such funding upon which DMHMRSAS relied in making its determination must be included).*

1. Information with respect to the status of the proposed development site and the surrounding community;

2. Any option or sales contract to acquire the site;

3. An evaluation of the need and effective demand for the proposed M/D development in the market area of such site;

4. Information regarding the legal, business and financial status and experience of the applicant;

5. Information regarding amenities and services proposed to be offered to the tenants;

6. A determination by DMHMR on such form or forms as the executive director may from time to time prescribe to the effect that (i) the mortgagor has the intent and ability to provide the services deemed necessary by DMHMR for the success of a housing development intended for occupancy by persons of low and moderate income who are mentally disabled; (ii) that the proposed location and type of housing are suitable for the contemplated residents and that there exists a need in the area of the proposed location for housing for the mentally disabled; and (iii) that the development is economically feasible to the extent that it is projected to have or receive funds in an amount sufficient to pay the debt service on the proposed M/D loan and to pay for all of the requisite services deemed necessary by DMHMR for the success of such a development (for those M/D developments which are to receive funding other than that directly from the mortgagor, a breakdown of the source and amount of such funding upon which DMHMR relied in making its determination must be included);

7. 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.

8. The applicant's (i) best estimates of the housing development costs and the components thereof; (ii) proposed M/D loan amount; (iii) proposed annual operating budget and the individual components

thereof; (iv) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident; and (v) amount of any subsidy or assistance, including any described in item 6 above; that the applicant is requesting for the proposed M/D 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;

9. The applicant's proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) any proposed fees to be charged to the tenants; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local government agencies or community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priorities among eligible tenant applicants.

10. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed M/D 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 M/D development; and

11. A nonrefundable processing fee equal to 0.5% of the proposed M/D loan amount. Such fee shall be applied at closing toward the payment of the authority's financing fee.

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.

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 M/D development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. Such appraisal shall not be obtained until the authority has received the processing fee required by § 6.A.11 above. The authority may also obtain such other reports, analyses, information and data as the executive

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director deems necessary or appropriate to evaluate the proposed M/D 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 closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

## B. Review of the application.

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 M/D 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, recreational opportunities, shopping facilities and other factors affecting the site;
  2. An evaluation of the ability, experience and financial capacity of the applicant;
  3. An analysis *A preliminary evaluation* of the estimates of *estimated* construction costs and the proposed operating budget and an evaluation as to the economic feasibility *design and structure* of the proposed M/D development;
  4. A review of the tenant selection plans, including its effect on the economic feasibility of the proposed M/D development and its efficacy in carrying out the programs and policies of the authority;
  5. An analysis of the drawings and specifications, the marketability of the units, the amenities and facilities to be provided to the proposed residents, and the management and maintenance characteristics of the proposed M/D development.
4. *A preliminary review of the estimated operating expenses and income (including any estimated subsidy or assistance) and a preliminary evaluation of the adequacy of the estimated income to sustain the proposed M/D development based upon the assumed occupancy rate and estimated construction and financing costs; and*
  5. *A preliminary evaluation of the need for such housing at rentals or prices which persons and families of low and moderate income can afford within the general housing market area to be served by the proposed development.*

## C. Requirement that application satisfy certain criteria:

Based upon the authority staff's analysis of such authority's review of the applications, documents and any additional information and any other information obtained by submitted by the applicants or obtained from other sources by the authority in its review of the proposed M/D development developments, the executive director may issue a commitment for an M/D loan to the applicant with respect to the proposed M/D development provided that *shall accept for processing those applications which he has determined that all of determines satisfy* the following criteria have been satisfied:

1. The vicinity of the proposed M/D development is and will continue to be a residential area suitable for the proposed M/D 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 M/D 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 and recreational facilities) in the area of the proposed M/D development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.
3. 1. The applicant either owns or leases the site of the proposed M/D 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.
2. *Subject to further review and evaluation by the authority's staff under § 6 of these rules and regulations, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.*
3. *Subject to further review and evaluation by the authority's staff under § 6 of these rules and regulations, the estimated income from the proposed M/D development, including any estimated subsidy or assistance, is sufficient to sustain the operation of the proposed M/D development.*
4. The applicant and general contractor have has the experience, ability and financial capacity necessary to carry out their respective its responsibilities for the acquisition, construction, ownership, operation, maintenance and management of the proposed M/D development.
5. The application and proposed M/D development conform to the requirements, limitations and conditions, if any, imposed by the executive director

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pursuant to § 4 of these rules and regulations:

5. *The proposed M/D development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary housing for low and moderate income persons and families who cannot otherwise afford such housing in the market area of the proposed M/D development.*

6. The proposed M/D development will assist in meeting the need for such housing in the market area of the proposed M/D development.

7. The applicant's estimates of housing development costs (i) include all costs necessary for the development and construction of the proposed M/D 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.

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

8. Subject to review by the authority, in the case of construction loans at final closing or in the case of permanent loans at 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 closing documents or under such other requirements as shall be agreed to by the authority.

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

10. The estimated income from the proposed M/D development, including any estimated 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.

11. The drawings and specifications shall demonstrate that the proposed M/D development as a whole and the individual units therein shall provide safe and habitable living accommodations and environment for the contemplated residents.

12. The tenant selection plans submitted by the applicant shall comply with these rules and regulations and shall be satisfactory to the authority.

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

14. The prerequisites necessary for the applicant to acquire, own, construct or rehabilitate, operate and manage the proposed M/D 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 M/D development, (v) building permits, and (vi) 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 M/D 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 M/D development).

15. The proposed M/D development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

16. The proposed M/D development will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

17. Subject to a final determination by the board, the financing of the proposed M/D development will meet the applicable requirements set forth in § 36-55.30 of the Code of Virginia. For the purposes of satisfying subsection B of the aforementioned code section, the term "substantial rehabilitation" means the repair or

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improvement of an existing housing unit, the value of which repairs or improvements equals at least 25% of the total value of the rehabilitated housing unit.

The executive director's determinations with respect to the above criteria shall be based only on the documents and information obtained by him at the time and are subject to modification or reversal upon his receipt of additional documents or information at a later time. If the executive director determines that the above criteria are satisfied, he will recommend further processing of the application and he shall present his 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 the M/D loan and issuance of the commitment therefor be authorized subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. The board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize issuance of a commitment therefor, subject to the further review in § 6 of these rules and regulations and such terms and conditions as the board shall require in such resolution.

A resolution authorizing an M/D loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the M/D development, expressed as a percentage of such for-profit housing sponsor's equity in such M/D development (such equity being established in accordance with § 9 of these rules and regulations), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar M/D developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative.

An M/D loan shall not be authorized by the board unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the M/D loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the M/D loan. For the purposes of satisfying subsection B of the aforementioned code section, the term "substantial rehabilitation" means the repair or improvement of an existing housing unit, the value of which repairs or improvements equals at least 25% of the total value of the rehabilitated housing unit.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary and appropriate. If any proposed MD development is so accepted for processing, the

executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with regard thereto. If the executive director determines not to recommend approval of the application, he shall so notify the applicant.

In addition, The executive director is authorized to make allocations of funds for M/D Loans to various types of housing sponsors and developments as he deems necessary or desirable to promote and accomplish the purposes set forth herein and in the Act. Any such allocation of funds may be made based upon such conditions as the executive director may require, including without limitation, one or both of the following: (i) DMHMR DMHMRSAS agrees, subject to terms and limitations acceptable to the authority, to provide funds for the developments in an amount sufficient to pay the operating costs thereof, including debt service with respect to the M/D Loan or loans applicable thereto; and (ii) the authority shall be able to finance the developments by the issuance of bonds in such amount and under such terms and conditions as the authority deems satisfactory.

### § 7. 6. Feasibility and commitment.

If the executive director determines that the foregoing criteria set forth in § 6-C above are satisfied and that he will recommend approval of the application and issuance of the commitment therefor, he shall either (i) present his recommendations to the board or (ii) if the maximum principal amount of the M/D loan does not exceed \$300,000, issue the commitment subject to the approval and ratification of 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 either (i) in the case of an M/D loan application for which the board's approval is sought in advance of the issuance of the commitment therefor, recommend to the board that the application be approved and that a commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate or (ii) in the case of a commitment to be issued by the executive director subject to ratification by the board all in accordance with these rules and regulations, issue such commitment subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate.

The board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize or ratify, as applicable, the M/D loan and the issuance of a commitment therefor, subject to such terms and conditions as the board shall require in such resolution.

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

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with respect to the feasibility of the proposed M/D development, including, without limitation, 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.

If not previously obtained, an appraisal of the land and any improvements to be retained and used as a part of the M/D development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected or approved 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 M/D 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 application, the documents and information received or obtained pursuant to § 5 and 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 M/D development;
2. A review of the tenant selection plan, including its effect on the economic feasibility of the proposed development and its efficacy in carrying out the programs and policies of the authority;
3. A final review of the ability, experience and financial capacity of the applicant;
4. 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, services 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 approve the issuance of a mortgage loan commitment to the applicant with respect to the proposed development only if he determines that all of the following criteria have been satisfied:

1. The vicinity of the proposed M/D development is and will continue to be a residential area suitable for the proposed M/D 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 M/D 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, and recreational facilities) in the area of the proposed M/D development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. 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 rules and regulations.

4. The applicant's estimates of housing development costs (i) include all costs necessary for the development and construction of the proposed M/D 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.

5. Subject to review by the authority, in the case of construction loans at final closing or in the case of permanent loans at 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 closing documents or under such other requirements as shall be agreed to by the authority.

6. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other non-housing facilities to be included in the proposed M/D development are incidental or related to the proposed M/D development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed M/D development.

7. The estimated income from the proposed M/D 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 drawings and specifications or other description of the work to be performed shall demonstrate that the proposed M/D development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents.

9. The tenant selection plan submitted by the applicant shall comply with these rules and regulations and shall be satisfactory to the authority.

10. The proposed M/D 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.

11. The prerequisites necessary for the members of the applicant to acquire, own, construct or rehabilitate, operate and manage the proposed M/D 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 M/D development, (v) building permits, and (vi) 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 M/D development).

12. The proposed M/D development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

13. The proposed M/D development will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion, approve the issuance of a commitment, subject to the satisfaction of such criteria, in such manner and within such time period

as he shall deem appropriate.

The term of the M/D loan, the amortization period, the estimated housing development costs, the principal amount of the M/D loan, the terms and conditions applicable to any equity contribution by the applicant, any assurances of successful completion and operational stability of the proposed M/D development, and other terms and conditions of such M/D loan shall be set forth in the board's resolution authorizing or ratifying such M/D loan or in the commitment therefor issued on behalf of the authority. The resolution or the commitment shall also include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed M/D development, the marketing and occupancy of such M/D development (including any income limits or occupancy restrictions other than those set forth in these rules and regulations), the disbursement and repayment of the loan, and other matters related to the construction and the ownership, operation and occupancy of the proposed M/D development. Such resolution or commitment may include a financial analysis of the proposed M/D development, setting forth the approved initial budget for the operation of the M/D development and a schedule of the estimated housing development costs. Such a resolution authorizing an M/D loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the M/D development, expressed as a percentage of such for-profit housing sponsor's equity in such M/D development (such equity being established in accordance with § 10 of these rules and regulations), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar M/D developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative.

An M/D loan shall not be authorized or ratified by the board unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize or ratify the M/D loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the M/D loan.

If the executive director determines not to recommend approval of the application and issuance of issue 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.

§ 8. 7. Closing.

Upon issuance of the commitment, the applicant shall



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direct its attorney to prepare and submit the legal documentation (the "closing documents") required by the commitment within the time period specified. When the closing documents have been submitted and approved by the authority staff, the board has approved or ratified the commitment and has determined that the financing of the proposed M/D development meets all the applicable requirements of § 36-55.39 of the Code of Virginia, and all other requirements in the commitment have been satisfied, the closing of the M/D loan shall be held. At this closing, the closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the *processing and financing fee fees*, will make any equity investment required by the closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of M/D loan proceeds will be made by the authority, if appropriate under the commitment and the closing documents.

The actual interest rate on the M/D loan shall be established by the executive director *prior to or* at the time of the execution of the deed of trust note at 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 M/D 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.

## § 9: 8. Construction.

In the case of construction loans, the construction of the M/D development shall be performed in accordance with the closing documents. The authority shall have the right to inspect the M/D development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the closing documents and to ascertain the propriety and validity of M/D 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 M/D loan proceeds may only be made upon compliance with the terms and conditions of the closing documents with respect to any such disbursement; 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.

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

In the case of construction loans, the closing documents shall specify those requirements and conditions that shall be satisfied in order for the M/D development to be deemed to have attained final completion. Upon such final completion of the M/D development, the mortgagor, general contractor, and any other parties required to do so by the closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the closing documents 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 closing documents in order to attain final completion, make the final disbursement of M/D loan proceeds, obtain any subsidy or assistance and otherwise consummate the final closing.

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

1. The total development costs, the final mortgage loan amount, the balance of M/D 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 initial amount of such monthly amortization payments, and the initial 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.

The equity investment of the mortgagor shall be the difference between the total housing development costs of the M/D development as finally determined by the authority and the final principal amount of the M/D loan as to such M/D development.

## § 11: 10. Seed money loans.

Notwithstanding anything herein to the contrary, the executive director may, in his discretion, approve an

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application on such forms as he may prescribe for a seed money loan and issue a commitment therefor subject to ratification by the board.

## § 12. 11. M/D loan increases.

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

Subsequent to closing, the authority will consider and, where appropriate, approve an M/D 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 M/D development approved by the authority which will improve the quality or value of the M/D development or will reduce the costs of operating or maintaining the M/D development;
2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the M/D development to properly perform an act for which the authority is solely responsible;
3. Where an M/D 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 closing to provide an M/D loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

Any such increase in the M/D loan subsequent to 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 M/D loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to an M/D loan to be financed from the proceeds of the authority's notes or bonds).
2. The obtaining by the owner of additional subsidy (if the M/D development is to receive such subsidy) in amounts necessary to fund the additional debt service

to be paid as a result of such M/D 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 M/D loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the M/D development.

4. A determination by the authority that the M/D loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the closing documents as approved by the authority) as is established in the resolution authorizing the M/D loan in accordance with § 4 of these rules and regulations.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the M/D 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 these 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 M/D loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the M/D loan set forth in the commitment, provided that such increase is consistent with the Act and these rules and regulations. Any increase in excess of such 2.0% shall require the approval of the board.

*The authority may consider and, where appropriate, approve a M/D loan increase if determined by the authority to be in its best interests in protecting its security for the M/D loan. Any such M/D loan increase shall require the approval of the board and shall be subject to such terms and conditions as the board or the executive director may require. Nothing contained in this § 12 section shall impose any duty or obligation on the authority to increase any M/D loan, as the decision as to whether to grant an M/D loan increase shall be within the sole and absolute discretion of the authority.*

## § 13. 12. Operation and management.

The M/D development shall be subject to certain regulatory covenants in closing documents entered into at closing between the authority and the mortgagor. Such regulatory covenants shall govern the occupancy, maintenance, operation, use and disposition of the M/D development and the activities and operation of the mortgagor. The mortgagor shall execute such other documents with regard to the regulation of the M/D development as the executive director may determine to be necessary or appropriate to protect the interests of the authority and to permit the fulfillment of the authority's duties and responsibilities under the Act and these rules

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and regulations.

The mortgagor shall lease the units in the M/D development only to persons who are eligible for occupancy thereof as described in § 3 of these rules and regulations. 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 M/D development and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the M/D development.

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 5 of these rules and regulations.

The authority shall have the power to supervise the mortgagor and the M/D development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the closing documents or other agreements relating to the M/D loans. The authority shall have the right to inspect the M/D development, conduct audits of all books and records of the M/D development and to require such reports as the authority deems reasonable to assure compliance with this § 13 section .

## § 14. 13. 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 § 14 section shall apply only to transfers of ownership to be made subject to the authority's deed of trust.

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 M/D 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 M/D 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 M/D development as proposed to be restructured by such

transfer, and (ii) in the case of a transfer of the M/D development, the entity which proposes to acquire the M/D 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 , *to the extent applicable or requested by the authority*, (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 M/D development, including a current audited financial report for the M/D 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 M/D development in a manner satisfactory to the authority.
2. The M/D development's physical and financial condition shall 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 M/D development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the M/D development, will reduce the costs of operating or maintaining the M/D development, will benefit the residents or otherwise improve the liveability of the M/D development, or will improve the financial strength and stability of the M/D 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 M/D 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 M/D development on its behalf must have the experience and ability necessary to manage the M/D development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

C. The authority will *may* 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, *if any*, is to be paid at the closing.

D. 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 M/D loan does not exceed the limitations specified in the Act and these 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, if any, 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 M/D development.

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.

E. A request for transfer of ownership shall be reviewed by the executive director and may be approved by him subject to such terms and conditions as he may require.

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 executive director.

The authority may require that the proposed ownership entity execute the then current forms of the authority's M/D loan documents in substitution of the existing M/D loan documents and/or to execute such amendments to the existing M/D 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 M/D development.

In the case of an M/D 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 M/D development and/or to protect the authority's interest as lender.

#### § 15. 14. Prepayments.

It shall be the policy of the authority that no prepayment of an M/D loan shall be made without its prior written consent for such period of time set forth in the note evidencing the M/D 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 also prohibit the prepayment of M/D 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, if any, 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 M/D development subsequent to prepayment, (ii) any actual or potential termination or reduction of any subsidy or other assistance, (iii) the current and future need and demand for low and moderate housing for mentally disabled persons in the market area of the development, (iv) the financial and physical condition of the M/D development, (v) the financial effect of prepayment on the authority and the notes or bonds, if any, issued to finance the M/D 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 M/D 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 M/D development.

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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 M/D 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 § 15 section 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.

VA.R. Doc. No. R95-28; Filed September 28, 1994, 10:59 a.m.

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**Title of Regulation:** VR 400-02-0014. Rules and Regulations for the Acquisition of Multi-Family Housing Developments.

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

**Public Hearing Date:** November 3, 1994 - 10 a.m.

Written comments may be submitted until November 3, 1994.

(See Calendar of Events section for additional information)

**Basis:** Section 36-55.30:3 of the Code of Virginia authorizes the authority to adopt, amend and repeal regulations to carry into effect the powers and purposes of the authority.

**Purpose:** The purpose of the proposed amendments is to simplify and expedite the processing of multi-family development acquisition applications.

**Substance:** The proposed amendments (i) provide for changes in the processing of multi-family development acquisition applications, (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications, (iii) simplify various provisions and (iv) make minor clarifications and corrections. Processing changes in the proposed amendments include (a) earlier action by the authority's board on multi-family development acquisition proposals, (b) eliminating unnecessary provisions regarding solicitation of proposals, (c) providing for greater flexibility in the approval of purchase price or mortgage loan increases, (d) deleting references to the housing management handbook, which is no longer maintained by the authority, (e) removing detailed descriptions of those documents to be submitted with multi-family development acquisition applications and (f) deleting authorization to establish occupancy criteria and priorities.

**Issues:** The proposed amendments will streamline the processing of multi-family development acquisition

applications and will eliminate unnecessary or obsolete requirements. The authority is not aware of any programmatic disadvantages for the public which would result from the adoption of the proposed amendments. Although the authority does not believe that any of these changes will adversely affect the success of its multi-family development acquisition program, members of the public may be of the opinion that the current process and requirements should remain the same to avoid any disruption or other adverse changes in the program.

**Impact:** The authority expects that the proposed amendments will result in more expeditious and efficient processing of multi-family development acquisition applications. The authority does not expect that any costs will be incurred for the implementation of and compliance with the proposed amendments. The authority is not aware of any localities that will be particularly affected by the proposed amendments.

## Summary:

*The proposed amendments (i) provide for changes in the processing of multi-family development acquisition applications, (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications, (iii) simplify various provisions and (iv) make minor clarifications and corrections.*

VR 400-02-0014. Rules and Regulations for the Acquisition of Multi-Family Housing Developments.

## § 1. Purpose and applicability.

The following rules and regulations will be applicable to the acquisition, ownership and operation by the authority or by any entity formed by the authority, on its own behalf or in conjunction with other parties, of multi-family housing developments intended for occupancy by persons and families of low and moderate income ("development" or "developments"). The developments to be acquired pursuant to these rules and regulations may be existing developments or may be developments to be constructed prior to acquisition. If the authority is to acquire an existing development, the provision of these rules and regulations relating to construction shall, to the extent determined by the executive director, not be applicable to such development. These rules and regulations shall also be applicable to the making of mortgage loans by the authority (i) to finance the construction of such developments prior to the acquisition thereof by the authority (such mortgage loans are referred to herein as construction loans) and (ii) to finance the acquisition and ownership of such developments by entities formed by the authority as described herein. If any development is to be subject to federal mortgage insurance or is otherwise to be assisted or aided, directly or indirectly, by the federal government, the applicable federal rules and regulations shall be controlling over any inconsistent provision herein. Furthermore, if the development is to be subject to mortgage insurance by the federal government, the

provisions of these rules and regulations 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. The term "construct" or "construction," as used herein, shall include the rehabilitation, preservation or improvement of existing structures.

Developments may be acquired pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

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 appropriate by him for good cause, to the extent not inconsistent with the Act and covenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations 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 applicant, any mortgagor, or any contractor or other members of the development team under the initial closing documents as described in § 7 6 of these rules and regulations.

These rules and regulations are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of proposals for the authority to acquire developments or to provide financing for such developments under the authority's multi-family housing acquisition program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

## § 2. Income limits and general restrictions.

In order to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined in the authority's rules and regulations) greater than (i) in the case of a multi-family dwelling unit for which the board has approved the acquisition prior to November 15, 1991, seven times the annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the foregoing shall not be applicable if no amounts are payable by or on behalf of such person or family or if amounts payable by such person or family are deemed by the board not to be rent or (ii) in the case of

a multi-family dwelling unit for which the board has approved the acquisition on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish in these rules and regulations or by resolution for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the authority may, subsequent to November 15, 1991, determine to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. The income limits established below in these rules and regulations are in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above.

At least 20% of the units in each development shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed 80% of the area median gross income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed (i) in the case of units for which the board has approved the acquisition prior to November 15, 1991, 150% of such area median gross income as so determined or (ii) in the case of units for which the authority has approved the acquisition on or after November 15, 1991, 115% of such area median gross income as so determined. The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy shall be as set forth in (i) and (ii), as applicable, in the preceding sentence (or, in the case of units described in (i) in the preceding sentence, such lesser income limit, if applicable, equal to seven times the annual rent, including utilities except telephone, applicable to such dwelling units).

The board may establish, in the resolution authorizing the acquisition of any development under these rules and regulations, income limits lower than those provided herein for occupancy of the units in such development.

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

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

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or approve in order to facilitate processing, review and approval of such applications.

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

## § 3. Terms of acquisition and construction loan.

The purchase price for a development to be acquired by the authority pursuant hereto shall be determined by the authority in such manner and shall be based upon such factors (including the fair market value of the development based on an appraisal thereof as well as on the estimated costs of the construction of the development, if applicable) as it deems relevant to the security of its ownership interest in the development and the fulfillment of its public purpose. The terms and conditions of such acquisition shall be contained in the commitment described in § 6 5 hereof and in the contract, if any, to acquire the development described in § 7 6 hereof.

With respect to any development which the authority contracts to acquire, the authority may assign all of its right, title and interest under such contract to acquire such developments to an entity (a "successor entity") formed by the authority, on its own behalf or in conjunction with other parties, to serve as the housing sponsor for such development pursuant to § 36-55.33:2 of the Code of Virginia and may provide a mortgage loan to such entity to finance the acquisition and ownership of the development.

*The authority may charge a processing fee to the applicant and a processing fee and financing fee to the successor entity (if any) in such amount as the executive director determines to be reasonable. Such fees shall be payable at initial closing or at such other times as required by the executive director.*

In addition to the acquisition of developments, the authority may make or finance construction mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance the construction of such developments. The term of such a construction loan shall be equal to the period determined by the executive director to be necessary to complete construction of the development and to consummate the acquisition thereof by the authority. Such construction loans shall be made on such other terms and conditions as the authority shall prescribe in (i) the

commitment described in § 6 5 hereof and (ii) any other applicable initial closing documents, described in § 7 6 hereof. Such construction 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 commitment or such percentage of the estimated 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 maximum principal amount specified in the commitment or such percentage of the estimated 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 estimated housing development costs specified or established in the 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 the fulfillment of its public purpose. Such factors may include the fair market value of the proposed development as completed. In determining the estimated housing development costs, the categories of costs which shall be includable therein shall be those set forth in the authority's rules and regulations for multi-family housing developments to the extent deemed by the executive director to be applicable to the proposed development.

The interest rate on the construction loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and the terms of the deed of trust note. The authority shall charge *a processing fee and a financing fee equal to 1.0% of the construction loan amount, unless the executive director shall for good cause require the payment of a different financing fee in such amounts as the executive director determines to be reasonable* . Such fee fees shall be payable at initial closing or at such other times as *required by 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 authority's acquisition and, if applicable, construction 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 for acquisition and, if applicable, construction financing 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 for such acquisitions and financings

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and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for acquisition and, if applicable, construction financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

## § 5. 4. Application and acceptance for processing.

Application for consideration of each proposal for the authority to acquire a development and, if applicable, to finance the construction thereof 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 owner (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, if applicable, 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 purchase price and financing costs; and

5. A preliminary evaluation of the ~~marketability of~~ need for such housing at rentals or prices which persons and families of low and moderate income can afford within the general housing market area to be served by 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 the 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 persons and families intended for occupancy thereof.
5. 1. 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



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closing.

6. The design of the proposed development is functional and appropriate for its intended use, 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 benefited 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. 2. Subject to further review and evaluation by the authority's staff under § 6 5 of these rules and regulations, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. 3. Subject to further review and evaluation by the authority's staff under § 6 5 of these rules and regulations, 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. 4. The applicant and general contractor have *has* the experience, ability and financial capacity necessary to carry out their respective *its* responsibilities for the construction and, prior to acquisition thereof by the authority, the 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 rules and regulations.

12. 5. 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. 6. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 5 of these rules and regulations and that the proposed development will otherwise continue to be processed

through initial closing and will be completed and conveyed to the authority all in compliance with the Act, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these rules and regulations 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 acquiring developments from 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 the acquisition of and, if applicable, the construction loan 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.

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 rules and regulations. If the executive director determines that the above criteria are satisfied, he will recommend further processing of the application and shall present his recommendation to the board. If the executive director determines that one or more of the above criteria are not satisfied, he may nevertheless, in his discretion, recommend to the board further processing of the application, subject to satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. The board shall review and consider the 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 to acquire the development and, if applicable, to finance the construction thereof, subject to the further review in § 5 of these rules and regulations and such terms and conditions as the board shall require in such resolution.

If the development is to be acquired by a successor entity formed by the authority as described in § 8 hereof, the resolution shall authorize (i) the assignment to such successor entity of the authority's interest in the contract to acquire the development and (ii), if applicable, the making of a permanent loan to such successor entity in an amount set forth therein to finance the acquisition

cost of the development and such other costs relating to the acquisition and ownership of the development and to the financing thereof as the authority shall deem necessary or appropriate.

If the development is to be acquired by a successor entity which is a for-profit housing sponsor, the board may in its resolution prescribe, in accordance with the authority's rules and regulations for multi-family housing developments, the maximum annual rate at which distributions may be made.

Neither an acquisition by the authority of a development nor a construction or permanent loan for such development pursuant to these rules and regulations shall be authorized unless the board by resolution shall make the applicable findings required by §§ 36-55.33:2 and 36-55.39, as applicable, of the Code of Virginia; provided, however, that the board may in its discretion authorize the acquisition or the construction or permanent loan in advance of the issuance of the commitment therefor in accordance herewith without making the finding, if applicable, required by subsection A of § 36-55.33:2 and subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the authority's acquisition of the development and, if applicable, the financing of the construction or permanent loan for such development.

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. If the executive director determines not to recommend approval of the application, he shall so notify the applicant.

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: 5. 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: any additions, modifications or other changes to the application and documents previously submitted as may be necessary or appropriate to make the information complete, accurate and current.

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 best estimates of (i) the housing development costs and the components thereof; (ii) proposed construction loan amount (if applicable); (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 proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) the proposed rent structure; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local governmental agencies of community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priority among eligible tenant applicants for occupancy of the proposed development.

5. The applicant's marketing plan, including description and analysis of strategies, techniques and procedures to be followed in marketing the units prior to acquisition of the development by the authority; and

6. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to construct, and, prior to the acquisition by the authority of the development, to own, 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

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## information.

If not previously obtained, an appraisal of the proposed development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected or approved 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 application, the documents and information received or obtained pursuant to § 4 and this § 6 5 . 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 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 approve the issuance of a commitment of the authority to enter into a contract with the applicant for the acquisition of the development by the authority and, if applicable, to make a construction loan for the development be issued to the applicant only if he determines that all of the following criteria have been satisfied:

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 environmental or other 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 design of the proposed development 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 benefited 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.
6. Based on the data and information received or

# Proposed Regulations

obtained pursuant to this § 6 5 , no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 4 of these rules and regulations.

2. 7. 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 applicant 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. 8. 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.

4. 9. 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.

5. 10. 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.

6. 11. 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 notes or bonds issued by the authority to acquire the development (plus such additional amounts as the authority shall determine to be appropriate as compensation for its administrative costs and its risks as owner of the development), the operating expenses, and replacement and other reserves required by the authority.

7. 12. The units will be occupied by persons and families intended to be served by the proposed development and eligible under the Act, these rules and regulations, and under any applicable federal laws, rules and regulations. Such occupancy of the units will be achieved in such time and manner that the proposed development (i) will attain self-sufficiency (i.e., the rental and other income from the development is sufficient to pay all operating expenses, replacement and other reserves required by the authority, and debt service on the notes or bonds issued by the authority to acquire the development, plus such additional amounts as the authority shall determine to be appropriate as compensation for its administrative costs and its risks as owner of the development) within the usual and customary time for a development for its size, nature, location and type and (ii) will continue to be self-sufficient for the full term of such notes or bonds.

8. 13. 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 and costs will not have a materially adverse effect on the occupancy of the units in accordance with ~~paragraph 7 subdivision 12~~ above.

9. 14. The ~~architectural drawings~~, plans and specifications ~~or other description of work to be performed~~ 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 5 .

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

11. 16. The marketing and tenant selection plans submitted by the applicant shall comply with these rules and regulations and shall provide for actions to be taken prior to acquisition of the development by the authority such that (i) the dwelling units in the proposed development will be occupied in accordance with ~~paragraph 7 subdivision 12~~ 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

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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 rules and regulations)~~ to be applied by the owner 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.

~~12.~~ 17. In the case of any development to be subject to mortgage insurance or otherwise to be 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.

~~13.~~ 18. 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 acquisition and, if applicable, the construction of 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.

~~14.~~ 19. The prerequisites necessary for the members of the applicant's development team to construct and, prior to the acquisition thereof by the authority, to 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 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 construction or the authority's ownership or operation

of the proposed development).

~~15.~~ 20. The proposed development will comply with all applicable state and local laws, ordinances, regulations and requirements.

~~16.~~ 21. The proposed development will provide valid and sound security for the authority's notes or bonds and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

~~17.~~ Subject to a final determination by the board, the acquisition and financing of the proposed development will meet the requirements set forth in §§ 36-55.33:2 and 36-55.30 of the Code of Virginia, as applicable.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of a commitment to acquire the development and, if applicable, to finance the construction of the development, 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 commitment be issued ~~approve the issuance of a commitment~~ subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate.

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 to acquire the development and, if applicable, to finance the construction thereof, subject to such terms and conditions as the board shall require in such resolution.

If the development is to be acquired by a successor entity formed by the authority as described in § 9 hereof, the resolution shall authorize (i) the assignment to such successor entity of the authority's interest in the contract to acquire the development and (ii), if applicable, the making of a permanent loan to such successor entity in an amount set forth therein to finance the acquisition cost of the development and such other costs relating to the acquisition and ownership of the development and to the financing thereof as the authority shall deem necessary or appropriate.

The purchase price for the development, the term and principal amount of any construction loan, the terms and conditions applicable to any equity contribution by the applicant for any construction loan, any assurances of successful completion of the development, and other terms and conditions of the acquisition and construction loan shall be set forth in the board's resolution or in the commitment issued pursuant to the resolution. The resolution or commitment shall also include such terms

and conditions as the authority considers appropriate with respect to the development and construction, if applicable, and the acquisition of the proposed development, the disbursement and repayment of the construction loan, if applicable, and other matters related to the development and construction, if applicable, and, prior to the acquisition thereof by the authority, the ownership, operation, marketing and occupancy (including any income limits or occupancy restrictions other than those set forth in these rules and regulations) of the proposed development. Such resolution or commitment may include a financial analysis of the proposed development, setting forth the initial schedule of rents, the approved initial budget for operation of the development and a schedule of the estimated housing development costs.

If the development is to be acquired by a successor entity which is a for-profit housing sponsor, the board may in its resolution prescribe, in accordance with the authority's rules and regulations for multi-family housing developments, the maximum annual rate at which distributions may be made.

Neither an acquisition by the authority of a development nor a construction or permanent loan for such development pursuant to these rules and regulations shall be authorized unless the board by resolution shall make the applicable findings required by §§ 36-55.33:2 and 35-55.30, as applicable, of the Code of Virginia; provided, however, that the board may in its discretion authorize the acquisition or the construction or permanent loan in advance of the issuance of the commitment therefor in accordance herewith without making the finding, if applicable, required by subsection A of § 36-55.33:2 and subsection B of § 36-55.30 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the authority's acquisition of the development and, if applicable, the financing of the construction or permanent loan for such development.

If the executive director determines not to recommend approval of an application and issuance of issue 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. 6. 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 authority shall execute and deliver to the applicant a contract to acquire the development; provided, however, that in the case of the acquisition of any existing development, the applicant shall convey the development to the authority at the initial closing, and the authority shall pay the purchase price

therefor to the applicant, all in accordance with the terms of the commitment. Also at the initial closing, the initial closing documents (including, in the case of an existing development, a housing management agreement between the authority and the management agent proposed by the authority or, in the case of a development to be constructed, an agreement between the authority and such agent to enter into a housing management agreement at final closing) shall be, where required, executed and recorded, and the applicant will pay to the authority the balance owed on the processing and financing fees, if any, will make any initial equity investment required by the commitment and the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. If the authority is to provide construction financing for the development, the closing of the construction loan shall also be held at this time; the financing fee of 1.0% of the construction loan amount shall be paid to the authority, and the initial disbursement of construction loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents. The actual interest rate on the construction loan shall be established by the executive director 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 the deed of trust note.

If a successor entity as described in § 9.8 hereof is to acquire an existing development, the sale and conveyance of such development and the making of any permanent mortgage loan to such entity by the authority, all as set forth in § 9.8 hereof, shall be consummated at the initial closing. The successor entity shall pay to the authority at initial closing the balance owed of any processing and financing fees relating to such permanent loan.

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 and, prior to acquisition by the authority, 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 and latent construction defect 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. 7. 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 any construction loan disbursements requested by the mortgagor. Such

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inspections shall be made for the sole and exclusive benefit and protection of the authority. If the authority is providing construction financing, a disbursement of construction 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 by the authority 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. 8. 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.

Prior to or concurrently with final closing, the applicant, the owner, the general contractor, the management agent and other members of the development team shall perform all acts and submit all contracts and documents required by the initial closing documents (including the contract to acquire the development) in order to attain final completion, obtain any federal insurance, subsidy or assistance and otherwise consummate the acquisition and the final closing. The owner shall deliver to the authority a fully executed deed conveying to the authority fee simple title to the development in accordance with the contract and shall execute and deliver such other final closing documents as the authority may prescribe. The authority shall pay to the owner the purchase price specified in the contract to acquire the development. The management agreement shall be executed by the authority and the management agent at the final closing. If the authority had provided the construction loan, such loan shall be repaid in full at final closing.

Prior to or concurrently with final closing, the executive director shall, if authorized by the resolution, assign its interest in the contract to acquire the development to a successor entity formed by the authority, on its own behalf or in conjunction with other parties, pursuant to the Act. Any reference to the authority in these rules and regulations with respect to the conveyance to or the acquisition, ownership or operation by the authority of a development shall be deemed to refer also to any such successor entity of the authority. Such successor entity shall purchase the development at final closing and otherwise perform the obligations of the authority as purchaser under the contract. The applicant shall convey title to the development to such successor entity and shall perform all of its other obligations as seller under such contract. Furthermore, if authorized by the resolution, the authority shall at final closing provide to such successor entity a permanent mortgage loan secured by a first lien

on the development to finance the acquisition and ownership thereof. The making of such permanent mortgage loan shall take place at final closing upon the execution, delivery and recordation of such documents as the executive director shall require. Such permanent loan shall bear such interest rate and shall be subject to such terms and conditions as the executive director shall prescribe pursuant to and in accordance with the commitment. For the purpose of determining any maximum annual dividend distributions by any such successor entity and the maximum principal amount of the permanent mortgage loan to such successor entity permissible under the Act, the total development costs shall be the cost of the acquisition as determined by the authority and such other costs relating to such acquisition, the financing of the permanent mortgage loan and the ownership and operation of the development as the authority shall determine to be reasonable and necessary. The equity investment of any such successor entity shall be the difference between such total development costs and the principal amount of the permanent mortgage loan.

At the final closing, the authority shall determine in accordance with the initial closing documents any funds due the authority, the applicant, the owner, general contractor, the architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

## § 10. 9. Construction loan, permanent loan and purchase price increases.

~~Prior to initial closing, the purchase price or the principal amount of any construction loan or both 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 of the proposed development, will not have a material adverse effect on the financial feasibility or proper operation and maintenance of the development or on the security of the authority's construction loan or ownership interest in the development, can be funded from available proceeds of the authority's notes or bonds, and will not result in noncompliance with the provisions of the Act or these rules and regulations (including, without limitation, the criteria set forth in § 6 hereof). 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 an increase in the purchase price or principal amount of the construction loan or both in the following instances:

1. 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;

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2. An 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 construction loan or its ownership interest to be acquired in the development; or

3. The authority has entered into an agreement with the mortgagor prior to initial closing to provide an increase if certain cost overruns occur, but only to the extent set forth in such agreement.

Any such increase in the construction loan or purchase price 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, as applicable:

1. The ability of the authority to sell bonds to finance the increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to an increase 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 on the authority's notes and bonds to be paid as a result of any such increase in the purchase price, plus such additional amounts as the authority shall determine to be appropriate as compensation for its administrative costs and its risks as owner of the development. 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 increase in the purchase price will have no material adverse effect on the financial feasibility or proper operation and maintenance of the development or on the security of the authority's ownership interest to be acquired in the development.

4. A determination by the authority that the construction loan, as increased, does not exceed such percentage of the estimated total development cost as is established in the resolution authorizing the construction loan, as applicable, in accordance with § 3 of these rules and regulations.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the construction loan and its ownership interest to be acquired in the development, to comply with covenants and agreements with the holders of its bonds, if any, issued to finance the construction loan or the acquisition of the development, to comply with the Act and these rules and regulations, and to carry out its public purpose.

In the event of any increase in the purchase price pursuant hereto, the authority may also increase the

principal amount of any permanent mortgage loan to be provided to any successor entity.

The executive director may, without further action by the board, increase the purchase price, the principal amount of the construction loan or the principal amount of the permanent loan at any time by an amount not to exceed 2.0% thereof, provided that such increase is consistent with the Act and these rules and regulations. Any increase in excess of such 2.0% shall require the approval of the board.

*The authority may consider and, where appropriate, approve an increase in the purchase price, an increase in the principal amount of the construction loan and/or an increase in the principal amount of the permanent loan, if determined by the authority to be in its best interest in accomplishing the acquisition or in protecting its security.* Nothing contained in this § 10 shall impose any duty or obligation on the authority to increase any purchase price or the principal amount of any construction loan or permanent loan, as the decision as to whether to grant a purchase price, construction loan or permanent loan increase shall be within the sole and absolute description of the authority.

## § 11. 10. Operation, management and marketing.

The authority shall establish the rents to be charged for dwelling units in the development. Units in the development shall only be leased to persons and families who are eligible for occupancy thereof as described in § 2 of these rules and regulations. The authority (or any successor entity acquiring the development pursuant to § 9 of these rules and regulations) shall examine and determine the income and eligibility of applicants for their initial occupancy of the dwelling units of the development and shall reexamine and redetermine the income and eligibility of all occupants of such dwelling units every ~~two~~ three years following such initial occupancy or at more frequent intervals if required by the executive director. It shall be the responsibility of each applicant for occupancy of such a dwelling unit, and of each occupant thereof, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority (or any such successor entity) with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or



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family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the authority (or any such successor entity) may terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit.

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;
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.

The authority (or any successor entity as described in § 9 8 hereof) shall develop a tenant selection plan for tenants eligible to occupy the development. Such tenant selection plan shall include, among other information that the executive director may require from time to time, the following: (i) the proposed rent structure; (ii) the utilization of any subsidy or other assistance from the federal government or any other source, (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the authority or such successor entity for tenant referrals or relocations from federal, state or local governmental agencies of community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priority among eligible tenant applicants for occupancy of the proposed development. In selecting eligible residents, the authority (or any such successor entity) shall comply with such occupancy criteria and priorities and with the tenant selection plan.

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 by management agents. Copies of the housing management handbook shall be available upon request.

The management of the development shall also be subject to a management agreement by and between the

management agent and the authority (or any successor entity). Such management agreement shall govern the policies, practices and procedures relating to the management, marketing and operation of the development. The term of the management agreement shall be as prescribed by the executive director, and upon the expiration of such term the authority may renew or extend such management agreement or may contract with a different management agent on such terms and conditions as the executive director shall require. The development shall be managed in accordance with the Act, these rules and regulations, and the management agreement and the authority's housing management handbook, if applicable .

If any successor entity formed pursuant to § 9 8 hereof is not within the exclusive control of the authority, the executive director may require that such entity and the development owned by and mortgage loan made to such entity be subject to such of the provisions of the authority's rules and regulations for multi-family housing developments as he shall require to protect its security for the mortgage loan, to protect its interest in such entity and to fulfill its public purpose under the Act.

VA.R. Doc. No. R95-29; Filed September 28, 1994, 10:59 a.m.

## DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Title of Regulation: VR 190-01-1:1. Regulations Governing Employment Agencies.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-1302.1 of the Code of Virginia.

Public Hearing Date: November 4, 1994 - 7 p.m.

Written comments may be submitted until December 19, 1994.

(See Calendar of Events section for additional information)

Basis: Section 54.1-1302.1 of the Code of Virginia states that the Department of Professional and Occupational Regulation (DPOR) shall administer and enforce Chapter 13 (§ 54.1-1300 et seq.) of Title 54.1 of the Code of Virginia. Further, it states that DPOR shall have the powers and duties of a regulatory board. Section 54.1-201 of the Code of Virginia states that regulatory boards within the Department of Professional and Occupational Regulation shall have the power to promulgate regulations necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. Section 54.1-113 of the Code of Virginia states that a regulatory board within the Department of Professional and Occupational Regulation shall, following the close of any biennium when the account for the board maintained under § 54.1-308 shows expenses allocated to it for the past biennium to be more,

# Proposed Regulations

than 10% greater or less than moneys collected on behalf of the board, revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

**Purpose:** The proposed amendments are designed to ensure the public protection by establishing standards for licensure of employment agencies and registration of employment counselors. The proposed amendments will establish new fees and adjust all other fees associated with employment agency licensing and will establish a fee level which assures that the variance between revenues and expenditures for the agency will not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia but ensures collection of revenues sufficient to support the operations of the agency. The new fee is proposed to cover the cost of reviewing and processing check returns for insufficient funds. This process is currently performed by the agency without assessing the regulant the cost incurred by the agency. The agency proposes to (i) establish a new fee for Insufficient Funds Check Return, (ii) clarify that the surety bond of \$5,000 must remain in effect during the entire period the employment agency is offering services to the public and further, should the bond be cancelled, another bond shall be secured and the department notified within 45 days of the cancellation providing additional protection for the public, (iii) allow the reader of the regulations to understand the meaning of "agency" as shown in § 1.1, and (iv) establish a procedure for the handling of checks returned to the department due to insufficient funds and the associated fee.

**Substance:** Section 1.1 includes the definition of "agency."

Section 2.2 clarifies that the bond must remain in effect during the entire period the employment agency is licensed and requires that another bond be secured and the department notified within 45 days from the date of cancellation of the bond.

Section 2.3 B deletes a provision initiating the requirement for listing the controlling person with a deadline of June 30, 1992.

Section 2.5 C deletes a grandfathering clause with the deadline of June 30, 1992.

Section 5.4 proposes to establish the procedure for checks which cannot be processed by the department due to insufficient banks funds and the associated fee of \$25.

**Issues:** It is anticipated that the agency will engage in review and revision of these regulations within the next two years. Fee structures for all programs in the department are reviewed biennially for compliance with § 54.1-113 of the Code of Virginia. There were minor amendments to the fee schedule in 1992. These proposed fee revisions are needed to ensure continued compliance with § 54.1-113 of the Code of Virginia and to ensure sufficient revenues to cover the cost of program operations.

The majority of employment agencies are classified as small businesses and these businesses will not be significantly impacted by these amendments and new proposals. The fee adjustments involve only a one time cost or a renewal fee which is charged every two years. The amount to be passed on to clients of the agencies is minimal.

There is no additional significant projected cost of implementation for the department following implementation of these proposed regulations except the copying and mailing costs associated with the initial distribution of the regulations which are estimated at \$128. The proposed new and adjusted fees will not create an additional cost burden on the department, but will instead adjust the fees to provide sufficient revenue to support the program's operations mandated by law through the 1994-96 biennium.

The agency is not aware of any significant issues involving the proposed changes to its regulations.

**Impact:**

A. Projected cost of implementation: There is no additional significant projected cost of implementation for the department following implementation of these proposed regulations except the copying and mailing costs associated with the initial distribution of the regulations which are estimated at \$128. The proposed new and adjusted fees will not create an additional cost burden on the department, but will instead adjust the fees to provide sufficient revenue to support the program's operations mandated by law through the 1994-96 biennium.

B. Number and type of regulated entities affected: These regulations apply to approximately 145 licensed employment agencies and registered counselors.

C. Projected cost of compliance:

Proposed Fee Structure

	Current	Proposed
Renewal (Firm)	\$100	\$175
Renewal (Counselor)	25	95
Reinstatement (Firm)	100	175
Reinstatement (Counselor)	25	95
New Application (Firm)	150	300
New Application (Counselor)	45	125
New Application (Controlling Person)	25	50
Change (Controlling Person)	25	50
Bad Check Fee	N/A	25
Projected expenditures 1992-94 Biennium . . . . .		26,796
Projected revenues 1992-94 Biennium . . . . .		<u>15,128</u>

# Proposed Regulations

Projected revenue balance @ 6/30/94 (Carryforward) (11,668)

## Under New Fee Structure

Projected expenditures 1994-96 Biennium . . . . . 24,386  
Projected revenues 1994-96 Biennium . . . . . 38,389  
Biennium Surplus/(Shortfall) . . . . . 14,003  
Cumulative projected revenue balance @ 6/30/96 . . . . . 2,335  
Projected % revenue balance @ 6/30/96 . . . . . 6.08%

D. Source of funds: The program/department receives no general funds to support the program operations. The program operates solely on funds collected through regulant fees.

E. Potential disadvantage to the regulated entities or the public: There is no potential disadvantage to the regulated entities or the public anticipated as a result of implementation of these regulations.

F. Localities particularly affected: There are no localities particularly affected by the implementation of these regulations.

## Summary:

*The amendments clarify the ongoing requirement for the \$5,000 surety bond, increase current fees and establish a new fee for insufficient funds check return, and define "agency." Clarifying technical amendments are also included.*

VR 190-01-1:1. Regulations Governing Employment Agencies.

## PART I. GENERAL.

### § 1.1. Definitions.

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

"Agency" means any authority, instrumentality, officer, board, or other unit of state government empowered by the basic laws to make regulations or decide cases.

"Duties and tasks" means the principal responsibilities required of the incumbent and the activities identified by the employer as necessary to discharge those responsibilities. Incidental tasks normally associated with the occupation need not be included.

"Laid off" means the loss of gainful employment with a specific employer for an indefinite period of time.

"Licensee" means any person holding a license issued by the department to act as an employment agency as

defined in § 54.1-1300 of the Code of Virginia.

"Registrant" means any person holding a registration issued by the department to act as an employment counselor as defined in § 54.1-1300 of the Code of Virginia.

## PART II. ENTRY.

### § 2.1. Requirement for licensure of employment agency.

Every person seeking a license as an employment agency shall file an application on a form furnished by the department, accompanied by a nonrefundable application fee in the amount of ~~\$150~~ \$200 and, if an individual, shall be at least 18 years of age.

### § 2.2. Bond.

Every applicant for an employment agency license shall submit to the department evidence that the applicant has secured a surety bond in the penal sum of \$5,000 for each license. *The bond shall remain in effect during the entire period the employment agency is licensed in the Commonwealth. Should the surety bond be cancelled for any reason, the employment agency shall secure another surety bond in the same amount within 45 days of the cancellation and submit to the department evidence that the surety bond in the penal sum of \$5,000 for each license is in effect.*

### § 2.3. Controlling person.

A. Every applicant for an employment agency license shall designate a controlling person, who shall be at least 18 years of age, at the time of application on a form furnished by the department, accompanied by a nonrefundable application fee of \$50. This controlling person shall be responsible for the employment agency's compliance with the provisions of Chapter 13 (§ 54.1-1300 et seq.) of Title 54.1 of the Code of Virginia and this regulation.

B. Any person acting as a controlling person on June 30, 1992, shall be deemed designated as such with the department upon the department's receipt of notification on a form furnished by the department, accompanied by a nonrefundable application fee of \$25. This notification and fee must be received by the department no later than December 31, 1992.

### § 2.4. Change of controlling person.

Each employment agency shall notify the department of a change in its controlling person. The employment agency shall designate the new controlling person in writing within 30 days after the change on a form furnished by the department, accompanied by a nonrefundable application fee in the amount of \$25 \$50.

### § 2.5. Requirements for registration of employment

# Proposed Regulations

counselors.

A. Every individual seeking registration as an employment counselor shall file an application on a form furnished by the department, accompanied by a nonrefundable application fee in the amount of ~~\$45~~ \$75, and shall be at least 18 years of age.

B. Any individual seeking registration as an employment counselor may request from the department at the time the application is received a written statement of conditional registration authorizing the individual to be employed as an employment counselor for no more than 30 days while the department determines if the applicant is eligible for registration.

C. ~~Any person acting as an employment counselor on June 30, 1992, shall be deemed registered with the department upon the department's receipt of his application for registration on a form furnished by the department, accompanied by a nonrefundable application fee in the amount of \$45. This notification and fee must be received by the department no later than December 31, 1992.~~

## § 2.6. Good standing.

All applicants for licensure as an employment agency, for approval as a controlling person or for registration as an employment counselor shall be in good standing in every jurisdiction where licensed or registered to perform these activities. The department may deny the application of any person who has had a license or registration suspended, revoked or surrendered in conjunction with any disciplinary action as an employment agency or employment counselor. The department may deny the application for approval as a controlling person of any person who was a part of the responsible management of any employment agency subject to disciplinary action by the Commonwealth or any other jurisdiction as an employment agency or employment counselor.

## § 2.7. Criminal conviction.

The department may deny licensure or registration to any applicant who has been convicted of a felony or misdemeanor involving fraud, misrepresentation or theft. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as evidence of such conviction.

## PART III. RENEWAL.

### § 3.1. Renewal required.

Licenses issued under this regulation shall expire on January 31 of each year. Registrations issued under this

regulation shall expire 12 months from the last day of the month wherein issued.

### § 3.2. Procedures for renewal.

A. The department shall mail a renewal application to the licensee or registrant at the last known address. The notice shall outline the procedure for renewal. Failure to receive a renewal notice shall not relieve the licensee or registrant of the obligation to renew. If the licensee or registrant fails to receive the renewal notice, a copy of the license or registration may be submitted with the required fee as an application for renewal.

B. Prior to the expiration date shown on the license or registration, each licensee or registrant desiring renewal of a license or registration shall return to the department the renewal application forms and the appropriate fee as outlined in § 3.3 of these regulations. The date of receipt of the renewal application and fee by the department or its agent is the date which will be used to determine if receipt is timely.

### § 3.3. Renewal fees.

All fees for renewal are nonrefundable and are as follows:

Employment agency .....	<del>\$100</del> \$200
Employment counselor .....	<del>\$ 25</del> \$100

### § 3.4. Denial of renewal.

The department may deny renewal of a license or registration for the same reasons as it may refuse initial licensure or registration or discipline a licensee or registrant.

## PART IV. REINSTATEMENT.

### § 4.1. Failure to renew; reinstatement required.

A. Any licensee or registrant failing to apply for renewal of a license or registration within 30 days following the expiration date printed on the license or registration shall be required to reinstate the license or registration.

B. Applicants for reinstatement shall meet the requirements of Part III of these regulations. An applicant for reinstatement of a license shall submit a reinstatement application fee of \$200. An applicant for reinstatement of registration shall submit a reinstatement application fee of \$50. Reinstatement fees are nonrefundable.

C. No license or registration shall be reinstated when the application and fee are received by the department more than six months after the expiration date printed on the license or registration. After that date the applicant shall meet the then current entry requirements and apply

# Proposed Regulations

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for a new license or registration. The date on which the application and fee are received by the department or its agent is the date which will be used to determine if receipt is timely.

## § 4.2. Denial of reinstatement.

The department may deny reinstatement of a license or registration for the same reasons as it may refuse initial licensure or registration or discipline a licensee or registrant.

### PART V. MISCELLANEOUS.

#### § 5.1. Refunds.

*All fees are nonrefundable and shall not be prorated.*

#### § 5.2. Insufficient funds check return.

*When a check, money draft, or similar instrument of payment of a fee required by regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing fee of \$25.*

### PART V. VI. STANDARDS OF PRACTICE.

#### § ~~5.1~~ 6.1. Transfer of license or registration prohibited.

A. Each license shall be issued to the legal business entity named on the application, whether it is a sole proprietorship, partnership, corporation, association or other legal entity, and shall be valid only for the legal entity named on the license. No license shall be transferred or otherwise assigned to another legal entity. All employment agency business shall be conducted under the name printed on the license.

B. Each registration shall be issued to the individual named on the application and shall be valid only for the individual named on the registration. No registration shall be transferred or otherwise assigned to another individual. All employment agency business shall be conducted under the name printed on the registration.

#### § ~~5.2~~ 6.2. Change of name or address.

A. Each licensee shall upon application and at all times keep the department informed of its physical address and shall report in writing to the department any change in its name or physical address no later than 15 days after the effective date of that change. Name change reports shall be accompanied by certified true copies of the documents which establish the name change. A post office box is not a physical address.

B. Each registrant shall upon application and at all times keep the department informed of his physical

address and shall report in writing to the department any change in his name or physical address no later than 15 days after the effective date of that change. A post office box is not a physical address.

#### § ~~5.3~~ 6.3. Change of ownership or entity.

A. Each licensee shall report in writing to the department any change in its ownership or changes in the officers of a corporation which do not result in the creation of a new legal entity. Such written report shall be received by the department within 30 days after the occurrence of such change.

B. A new license is required whenever there is any change in the ownership or manner of organization of the licensee which results in the creation of a new legal entity.

#### § ~~5.4~~ 6.4. Employment agency office.

A. Each employment agency shall maintain an office located in the Commonwealth which meets the requirements established by § 54.1-1303 C of the Code of Virginia and shall allow the department or any of its agents access to its office during normal business hours.

B. Any license issued to an employment agency and any registration issued to an employment counselor shall be displayed in a conspicuous place in the employment agency.

#### § ~~5.5~~ 6.5. Contracts.

A. Each contract between an employment agency and a client shall be in writing and an executed copy of each contract shall be provided to the client.

B. Each contract shall state in a prominent place, in bold face letters, "Licensed by the Department of ~~Commerce~~ Professional and Occupational Regulation, Commonwealth of Virginia, 3600 West Broad Street, Richmond, Virginia 23230, telephone (804) 367-8500."

C. Each contract shall contain a disclosure statement as specified below which shall be enclosed in a conspicuous border or shall be printed in a bold face or distinctive type face and shall be placed immediately above the signature line of the contract.

1. Each initial contract shall include the following statement: "Read this contract and be certain that you understand all of its provisions before you sign it. If you sign this contract and accept a job found for you by this employment agency, you will be responsible for the payment of the fee stated on this contract unless your employer agrees to pay it for you. You are not obligated to accept any job found for you by this employment agency. The fee will be due when you start to work or when you sign a position acceptance agreement naming your employer and

describing your job. The employment agency must give you a copy of this contract after you sign it."

2. Each position acceptance contract shall include the following statement: "Read this contract and be certain that you understand all of its provisions before you sign it. If you sign this contract, you will be responsible for the payment of the fee to the employment agency unless your employer has agreed to pay it for you. This contract describes the job you are accepting or has information describing the job attached to it. This contract and its attachments constitute the entire agreement and any oral representations or promises made by the employment agency or anyone else may not be relied upon. Your fee may be refundable under certain circumstances but this contract does not constitute a guarantee that you have found lasting employment or that you will like the job. The employment agency must give you a copy of this contract after you sign it."

D. Each initial contract shall state in bold letters enclosed in a conspicuous border the gross amount of any fee charged the client and the duration of time upon which the fee is based. Each initial contract shall also state the name and address of the employment agency, the time when the fee will first be due, how the fee is to be paid, and the period of time over which the fee is to be paid. Each initial contract shall disclose to the client the total cost to the client and if the agency uses a fee schedule, it shall be set out in the initial contract.

E. Each position acceptance contract shall disclose that the employment agency shall not provide or offer to provide to any employer the placement fee paid by the client, or any portion of that fee, for the agency's services in obtaining employment for the client. Each position acceptance contract shall also disclose that no person or any member of his immediate family who has any interest in the employment agency shall refer any client to any lending institution in which the person or any member of his immediate family has a financial interest.

F. Each position acceptance contract shall state the wage or salary of the position accepted and shall contain a job description of the position accepted by the client. The minimum elements of the job description shall include, but are not limited to:

1. Job title;
2. Name of the employer;
3. Address of the employer;
4. Location of the employment if different from the address of the employer;
5. Wage or salary;
6. The provision of any paid or unpaid health

insurance;

7. Days and hours of work;
8. Paid holidays;
9. Duties and tasks to be performed; and
10. Training and promotional opportunities.

The provisions of this subsection shall be deemed to be met when an employment contract of the nature customarily used in the client's occupation has been signed by the client and the employer and a copy of same is attached to the position acceptance contract.

#### § 5.6. 6.6. Refunds.

A. If the employment is terminated within 12 weeks from the initial date of employment, and the client is due a refund, the employment agency shall refund to the client a portion of the fee equal to one-twelfth of that fee for each week or portion of a week that the client was not employed.

B. Circumstances where the client is due a refund as stated above include, but are not limited to:

1. When employment is terminated by the employer through no fault of the client; and
2. When the client voluntarily terminates the employment because the job was not as represented by the employment agency.

C. Circumstances that are deemed no fault of the client include, but are not limited to:

1. When the employer goes out of business;
2. When the client receives from the employer a payroll check which is not honored by the bank upon which it is drawn;
3. When the client is laid off;
4. When a change in the nature of the duties and tasks of the job occurs;
5. When the client does not have the knowledge, skills and abilities to perform the duties and tasks of the job; and
6. When the employment agency caused to be published false or misleading advertising material.

D. A client shall not be due a refund if the client misrepresented his qualifications for the employment.

E. Any refund due to a client from an employment agency shall be made within 30 days from the date the

# Proposed Regulations

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licensee determines a refund is due.

## ~~§ 5.7.~~ 6.7. Receipts.

Every transaction involving the making of a payment to an employment agency by a client shall require a numbered receipt. A copy of the receipt shall be provided to the client and one copy shall be maintained by the employment agency. Every receipt shall contain the following:

1. Name of applicant;
2. Date and amount of payment;
3. Purpose of payment;
4. Name and address of employment agency; and
5. Name and signature of person receiving the payment.

## ~~§ 5.8.~~ 6.8. Records.

The following records shall be maintained by the employment agency for a period of two years:

1. All initial and position acceptance contracts;
2. All receipts as required by § 54.1-1304 F of the Code of Virginia and ~~§ 5.7~~ 6.7. of this regulation;
3. The name and address of every client from whom a fee is received or to whom a fee is charged;
4. The amount of the fee actually received or charged;
5. The amount and date of any refunds made;
6. The name and address of the employer of each client;
7. The rate of compensation of every client;
8. All requests for client referrals by employers, each of which shall reflect the date of the request, the name and address of the employer, the rate of compensation, and the position description; and
9. Copies of all job advertisements identified by date and publication.

## PART ~~VI.~~ VII. STANDARDS OF CONDUCT.

## ~~§ 6.1.~~ 7.1. Grounds for disciplinary action.

The department has the power to fine any licensee or registrant, and to suspend, revoke or fail to renew any license or registration issued under the provisions of

Chapter 13 of Title 54.1 of the Code of Virginia and the regulations of the department, where the licensee or registrant has been found to have violated or cooperated with others in violating any provision of Chapter 13 of Title 54.1 of the Code of Virginia or any regulation of the department.

## ~~§ 6.2.~~ 7.2. Advertising.

A. All advertising shall include the name and telephone number of the employment agency placing the advertisement.

B. All advertising shall be truthful and contain no false or misleading statements with respect to the type of employment or salary available.

C. No employment agency shall advertise its services as free if the client is to assume any liability or contingent liability for any fees.

D. No salary shall appear in an advertisement except the one appearing in the actual job order. When the top salary range is quoted, it shall be preceded by the word "to."

E. The word "open" or the symbols "\$\$\$" or words and symbols of similar import may not be used as a substitute for the salary of any position or positions in an advertisement.

F. In group advertisements containing both "employer pays fee" and "applicant pays fee" listings, if the source of the fee is indicated for one job, it shall be indicated for all jobs.

## ~~§ 6.3.~~ 7.3. Inspection of records.

All licensees shall produce during regular business hours to the department or any of its agents for inspection and copying any records required to be kept by the Code of Virginia or this regulation.

V.A.R. Doc. No. R95-31; Filed September 28, 1994, 11:49 a.m.

COMMONWEALTH of VIRGINIA, Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230-4917

**EMPLOYMENT AGENCY BUSINESS LICENSE APPLICATION**

Post Office Box 11066  
Richmond, Virginia 23230

\$150.00 Initial License Fee  
Check or money order should be made payable to the Treasurer of Virginia

*ALL APPLICATION FEES ARE NONREFUNDABLE*

Please *print* or *type* when completing this form:

Business Name: \_\_\_\_\_  
 Trading As Name: \_\_\_\_\_  
 Business Street Address: \_\_\_\_\_ P. O. Box (if applicable): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Business Telephone No.: ( ) \_\_\_\_\_

Please check one only of the following:

Business Type:  Sole Proprietorship  Partnership  Corporation  Association

Please answer the following questions with a Y=Yes or N=No in the appropriate box:

- 1) Has your firm been licensed in any other state? If yes, attach an explanation providing full details, including license certificate number.
- 2) Has your firm ever been convicted in any court of a felony, fraud, or misrepresentation? If yes, attach a full explanation.
- 3) Has your application for a business license ever been revoked, rejected, or suspended in Virginia or any other jurisdiction? If yes, attach a full explanation.
- 4) Have you read, or are you fully familiar with, the provisions of the Chapter 13 (§54.1-1300 et seq.) of Title 54.1 of the Code and Department of Commerce Employment Agency Regulation VR 190-01-1:1?

**MUST BE COMPLETED BY APPLICANT**

I hereby certify that all information provided on this form and its attachments is true and complete. I agree and understand that any misrepresentation of information herein, regardless of time of discovery, may result in action to deny this application and/or to suspend or revoke any license, certification, or registration issued as a result of this application. I further state that I have read and understand the Virginia statutes and regulations governing Employment Agencies and agree to abide by their provisions and any amendments or revisions to same promulgated in accordance with Virginia law.

\_\_\_\_\_  
Signature

COMMONWEALTH of VIRGINIA, Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230-4917

**EMPLOYMENT AGENCY CONTROLLING PERSON APPLICATION**

Post Office Box 11066  
Richmond, Virginia 23230

\$25.00 Initial License Fee  
Check or money order should be made payable to the Treasurer of Virginia

*ALL APPLICATION FEES ARE NONREFUNDABLE*

Please *print* or *type* when completing this form:

First Name	Middle Name (if none, leave blank)	Last Name	Generation (i.e.: III, Jr.)
_____	_____	_____	_____

Licensed Firm's Name: \_\_\_\_\_ Firm's License Number: \_\_\_\_\_  
 Residence Street Address: \_\_\_\_\_ P. O. Box (if applicable): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Province: \_\_\_\_\_ Country: \_\_\_\_\_ Postal Code: \_\_\_\_\_  
 Residence Telephone No.: ( ) \_\_\_\_\_

Please answer the following questions with a Y=Yes or N=No in the appropriate box:

- 1) Have you ever been licensed in any other state as an owner or manager of an Employment Agency? If yes, attach an explanation providing full details, including license certificate number.
- 2) Have you ever been convicted in any court of a felony, fraud, or misrepresentation? If yes, attach a full explanation.
- 3) Has your application for a license as an owner or manager of a business ever been revoked, rejected, or suspended for fraud or misrepresentation in Virginia or any other jurisdiction? If yes, attach a full explanation.
- 4) Have you read, or are you fully familiar with, the provisions of the Chapter 13 (§54.1-1300 et seq.) of Title 54.1 of the Code and Department of Commerce Employment Agency Regulation VR 190-01-1:1?

**MUST BE COMPLETED BY APPLICANT**

I hereby certify that all information provided on this form and its attachments is true and complete. I agree and understand that any misrepresentation of information herein, regardless of time of discovery, may result in action to deny this application and/or to suspend or revoke any license, certification, or registration issued as a result of this application. I further state that I have read and understand the Virginia statutes and regulations governing Employment Agencies and agree to abide by their provisions and any amendments or revisions to same promulgated in accordance with Virginia law.

\_\_\_\_\_  
Signature



COMMONWEALTH of VIRGINIA, Department of Commerce, 3608 West Broad Street, Richmond, Virginia 23230-4917

EMPLOYMENT AGENCY COUNSELOR APPLICATION

Post Office Box 11066  
Richmond, Virginia 23230

\$45.00 Initial License Fee  
Check or money order should be made payable to the Treasurer of Virginia

ALL APPLICATION FEES ARE NONREFUNDABLE

Please print or type when completing this form:

First Name	Middle Name (if none, leave blank)	Last Name	Generation (i.e.: III, Jr.)
_____			
Licensed Firm's Name: _____		Firm's License Number: _____	
Residence Street Address: _____		P. O. Box (if applicable): _____	
City: _____	State: _____	Zip: _____	
Province: _____	Country: _____	Postal Code: _____	
Residence Telephone No.: ( ) _____		Date of Birth: _____	Place of Birth: _____

Please answer the following questions with a Y=Yes or N=No in the appropriate box:

- 1) Have you ever been licensed in any other state as a counselor of an Employment Agency? If yes, attach an explanation providing full details, including license certificate number.
- 2) Have you ever been convicted in any court of a felony, fraud, or misrepresentation? If yes, attach a full explanation.
- 3) Has your application for a license as a counselor of a business ever been revoked, rejected, or suspended for fraud or misrepresentation in Virginia or any other jurisdiction? If yes, attach a full explanation.
- 4) Have you read, or are you fully familiar with, the provisions of the Chapter 13 (54.1-1300 et seq.) of Title 54.1 of the Code and Department of Commerce Employment Agency Regulation VR 190-01-1.1?

**MUST BE COMPLETED BY APPLICANT**

I hereby certify that all information provided on this form and its attachments is true and complete. I agree and understand that any misrepresentation of information herein, regardless of time of discovery, may result in action to deny this application and/or to suspend or revoke any license, certification, or registration issued as a result of this application. I further state that I have read and understand the Virginia statutes and regulations governing Employment Agencies and agree to abide by their provisions and any amendments or revisions to same promulgated in accordance with Virginia law.

\_\_\_\_\_  
Signature

# Proposed Regulations

\* \* \* \* \*

**Title of Regulation:** VR 190-03-01. Regulations Governing Polygraph Examiners.

**Statutory Authority:** §§ 54.1-113 and 54.1-1802 of the Code of Virginia.

**Public Hearing Date:** November 9, 1994 - 10 a.m.  
Written comments may be submitted until December 19, 1994.

(See Calendar of Events section for additional information)

**Basis:** Section 54.1-1802 of the Code of Virginia provides the director with the legal authority to amend the polygraph examiners regulations, with the advisement of the Polygraph Examiners Advisory Board. The director proposes to amend the existing regulations governing polygraph examiners as recommended by the Virginia Polygraph Examiners Advisory Board. In addition, the Polygraph Examiners Advisory Board is adjusting fees for application, examination, and renewal in order to assure that the variance between revenues and expenditures does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia.

**Purpose:** The amendments are for the preservation of the health, safety, and welfare of the public in the Commonwealth of Virginia and apply to approximately 210 licensed polygraph examiners. In accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), such amendments are necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the advisory board.

**Substance:** The current polygraph examiners regulations have not been revised or amended since 1991. To assure clarity, simplicity and readability, the regulations have been reformatted into six parts as follows: Definitions, Entry Requirements, Renewal, Reinstatement, Standards of Practice and Conduct, and Approval of Polygraphy School. Each of these parts includes proposed amendments. The proposed amendments address the following: additional basic entry requirements for licensure of polygraph examiners and qualifications for polygraph examiner interns, qualifications for licensure by reciprocity, waiver of internship requirement, licensure by examination, procedures and qualifications for licensure renewal and reinstatement, staggered renewals, licensure fees, guidelines regarding the maintenance of a license, and application procedures for approval of polygraph school.

**Issues:** These amendments are necessary and reasonable to protect the public from those practitioners who may be in violation of the regulations.

The implementation of these provisions will have a minimal impact on those polygraph examiners currently licensed and those registered polygraph interns.

No potential disadvantage to the regulated entities or the public has been identified.

The fees have been set to ensure sufficient revenues to cover the expenses of the program including administrative costs.

Cost for implementation of the amended regulations is estimated to be limited to the costs of printing and mailing of the proposed and final regulations to those currently licensed and those on the board's Public Participation Guidelines list. The estimated total cost for printing and mailing is \$875.

## Estimated Impact:

A. Numbers and types of regulated entities/persons affected: These regulations apply to approximately 210 licensed polygraph examiners and a minimal number of polygraph examiner registered interns.

No localities particularly affected by the proposed regulations have been identified.

B. Projected costs to the state for implementation and enforcement: Costs are shown in the regulations in the form of fees for initial application for examiners license or intern registration, examination, renewal and reinstatement of licenses. The fees were established in accordance with § 54.1-113 of the Code of Virginia and were based on the current regulated population with approximately a 95% renewal rate. The fees have been set to ensure sufficient revenues to cover the expenses of the program including administrative costs.

Cost for implementation of the amended regulations is estimated to be limited to the costs of printing and mailing of the proposed and final regulations to those currently licensed and those on the board's Public Participation Guidelines list. The board will notify all regulated entities and interested parties regarding the proposed regulations, the public hearing, and comment period by mail and will forward a copy of the proposed regulations upon request. The final regulations will be distributed to all affected parties. The estimated total cost for printing and mailing is \$875.

C. Projected costs to regulated entities: Fee increases include the following:

<u>Fee Type</u>	<u>Increase</u>
Application for Examiners License	\$60
Application for Intern Registration	\$60
Examination Fee	\$60
Re-examination Fee	\$60
Renewal Fee	\$30

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Reinstatement Fee ..... \$60

The advisory board has also proposed three new fees: (i) a bad check fee for those individuals whose checks are dishonored by the financial institution, (ii) a certificate of licensure fee for a licensee requesting a letter of good standing from the advisory board, and (iii) a duplicate wall certificate fee for those licensees requesting an additional certificate. Currently, the board and the department absorb these costs.

D. Sources of funds to address fiscal impacts: This program is fully supported through licensing and renewal fees.

Projected Expenditures and Revenues for the 1992-94 Biennium

Projected Expenditures 1992-94 Biennium ..... \$33,902  
 Projected Revenues 1992-94 Biennium ..... 34,222  
 Projected Revenue Balance @ 6/30/94 (Carryforward) ..... \$320

Under New Fee Structure:

Projected Expenditures 1994-96 Biennium ..... \$44,491  
 Projected Revenues 1994-96 Biennium ..... 46,811  
 Biennium Surplus/(Shortfall) ..... \$2,320  
 Cumulative Projected Revenue Balance @ 6/30/96 . \$2,640  
 Projected % Revenue Balance @ 6/30/96 ..... 5.64%

Current application forms will be revised for clarity and simplicity and will reflect new fees and provisions. These applications will be reprinted. Copies of the proposed applications are included. (Application for a Polygraph Examiners License/Intern Registration, Application for the Polygraph Examiners Examination, Instructor Qualification Form, and Application for Approval of Polygraph School)

Summary:

*The proposed regulations provide additional definitions, clarify entry requirements, simplify requirements for renewal and reinstatement, clarify the standards of practice and conduct, and develop the criteria for approval of polygraph schools.*

*The regulation provides definitions of polygraph terms from Chapter 18 (§ 54.1-1800 et seq.) of Title 54.1 of the Code of Virginia and defines the terms "affidavit," "reciprocity," "reinstatement" and "renewal." Also, the entry requirements state that additional information is to be provided when applying for a license, such as, meeting the minimum age requirement of 18 years, indicating whether the*

*applicant is a licensed polygraph examiner in good standing in another jurisdiction, and disclosing any disciplinary action in connection with his polygraph examiner license and disclosing any misdemeanor or felony convictions. All applicants must also disclose a physical address and sign an affidavit certifying that they have read and understand the law and regulations of the board.*

*The proposed regulations also establish provisions for those individuals residing outside of Virginia who wish to obtain a Virginia license by reciprocity. Such provisions require the licensed polygraph examiner to be engaged in the practice of polygraphy for at least 12 consecutive months, require the criteria under which the license was issued to be substantially equivalent to those established in Virginia, and require the applicant to meet all other board requirements for licensure. Also, each nonresident applicant shall file an irrevocable consent for the department to serve as service agent for any actions filed in a Virginia court.*

*The experience and education requirements for obtaining a polygraph examiner's license or an examiner's intern registration remain unchanged. No additional qualifications are needed for an examiner currently licensed to supervise a registered polygraph intern. The proposed regulations implement a new provision providing federal employees and military personnel who have administered polygraph examinations and who have received training from the federal government or the United States military to obtain a license without fulfilling the internship requirement by successfully passing the board's written examination.*

*The proposed regulations clarify the advisory board's licensure examination. All applicants for licensure shall pass a two-part examination, of which Part I is a written examination and Part II is an Advisory Board Evaluation. Applicants must pass Part I in order to sit for Part II of the examination being administered the same day.*

*Fees for initial application, examination, renewal and reinstatement of license have been established in accordance with § 54.1-113 of the Code of Virginia and are based on the current regulated population. The advisory board has proposed three new fees: (i) a bad check fee for those individuals whose checks are dishonored by the financial institution, (ii) a certificate of licensure fee for a licensee requesting a letter of good standing from the advisory board, and (iii) a duplicate wall certificate fee for those licensees requesting an additional certificate. The procedures regarding renewal and reinstatement are addressed.*

*License expiration dates will be staggered and will expire one year from the date the license was issued. The department will mail a renewal notice to th*

licensee at the last known address on record. Applicants for renewal will be required to submit the appropriate fee and shall continue to meet the standards of entry as set forth in the proposed regulations. Any polygraph examiner who fails to renew his polygraph license within one calendar month after the license expires shall be required to apply for reinstatement. Six calendar months after the expiration date on the license, reinstatement is no longer possible and the former licensee must reapply as a new applicant for licensure meeting all educational, examination and experience requirements. The department may deny renewal or reinstatement for the same reasons as it may refuse initial licensure or discipline a licensee. Guidelines regarding the maintenance of a license and the status of a license during the period before reinstatement are addressed in the proposed regulations.

All polygraph examination procedures have been consolidated into one section. To comply with amendments to § 40.1-51.4:3 of the Code of Virginia as amended in 1990, the advisory board amended the section to provide that an examiner shall not ask questions regarding the examinee's sexual preference or sexual activities.

In addition to the current minimum requirements for a polygraphy school curriculum, the advisory board has clarified the information needed regarding the program for the board's consideration and approval.

VR 190-03-01. Regulations Governing Polygraph Examiners.

## PART I. GENERAL DEFINITIONS.

### § 1.1. Definitions.

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

*"Affidavit"* means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

*"Advisory board"* or *"board"* means the Polygraph Examiner's Advisory Board.

*"Department"* means the Department of Professional and Occupational Regulation.

*"Director"* means the Director of the Department of Professional and Occupational Regulation.

*"Polygraph"* means any mechanical or electronic instrument or device used to test or question individuals for the purpose of determining truthfulness.

*"Polygraph examination"* means the entire period of contact between a licensee and an examinee.

*"Polygraph examiner"* or *"examiner"* means any person who uses any device or instrument to test or question individuals for the purpose of determining truthfulness.

*"Polygraph examiner intern"* means any person engaged in the study of polygraphy and the administration of polygraph examinations under the personal supervision and control of a polygraph examiner.

*"Polygraph test"* means the part of the polygraph examination during which the examinee is connected to a polygraph instrument which is continuously recording the examinee's reactions to questions.

*"Reciprocity"* means any individual holding a current license in another jurisdiction may obtain a Virginia polygraph examiners license provided the requirements and standards under which the license was issued are substantially equivalent to those established in these regulations and the individual meets all other board requirements for licensure in Virginia.

*"Reinstatement"* means having a license restored to effectiveness after the expiration date on the license has passed. When a licensee fails to renew his license within one calendar month after its expiration date, the licensee is required to apply for reinstatement of the license. Six months after the expiration date on the license, reinstatement is no longer possible and the applicant must reapply and requalify for licensure.

*"Relevant question"* means a question asked of an examinee during a polygraph test which concerns an issue identified to the examinee during the pretest and which is to be reported by the licensee to any other person.

*"Renewal"* means continuing the effectiveness of a license for another period of time.

### § 1.2. Explanation of terms.

Each reference in these regulations to a person shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural, and to natural persons and organizations.

### § 1.3. Advisory board.

A. The Polygraph Examiners Advisory Board, consisting of eight members appointed by the director, shall advise the department on any matters relating to the practice of polygraphy and the licensure of polygraph examiners in the Commonwealth of Virginia.

B. The advisory board shall be composed of three Virginia licensed polygraph examiners employed by law-enforcement agencies of the Commonwealth, or any of its political subdivisions; three Virginia licensed polygraph

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examiners employed in private industry; and two citizen members as defined in §§ 54.1-107 and 54.1-200 of the Code of Virginia. All members must be residents of the Commonwealth of Virginia.

B. C. Each member shall serve a three-year *four-year* term. No member shall serve more than two consecutive *three-year four-year* terms.

## § 1.3. Renewal of license.

Each examiner's license shall be valid for one calendar year or for such part remaining in the one-year period when the license is issued. Each examiner's license shall be renewed during December of each year, and if not so renewed shall expire on December 31 of that year. A renewal fee of \$80 shall accompany each renewal application for the examiner's license. Each licensee who applies for renewal after January 31 shall pay an additional \$80 late fee (\$160 total to be paid). Failure of the licensee to receive the notice and application to renew from the department shall not constitute grounds for relief from these requirements for renewal.

## § 1.4. Reinstatement of examiner's license.

An examiner whose license has expired may, at any time within six months after expiration, obtain a renewal license by paying all renewal and late fees due. Anyone who has not reapplied within six months shall be required to pass the licensing examination and pay a reinstatement fee of \$160.

## PART II. ENTRY REQUIREMENTS.

### § 2.1. Application for license and registration.

A. Each application shall be made on forms provided by the department.

B. Each application for an examiner's license shall be accompanied by a fee of \$65, which is nonrefundable.

C. Each application for an intern registration shall be accompanied by a fee of \$25, which is nonrefundable.

D. A separate application and nonrefundable \$65 fee shall be required from each applicant for each administration of the licensing examination.

E. Each applicant shall submit his fingerprints on forms provided by the department.

#### § 2.1. Basic qualifications for licensure and registration.

A. Every applicant to the board for a license shall provide information on his application establishing that:

1. The applicant is at least 18 years old.

2. The applicant has met the experience requirements by having a high school diploma or its equivalent and a minimum of five years experience as an investigator, detective, or in a field acceptable to the department which demonstrates the ability to practice polygraphy.

a. The applicant will be credited two years of the five years of experience required in subdivision 2 of this subsection if he has an associate degree from an accredited college or university.

b. The applicant will be credited all five years of experience required in subdivision 2 of this subsection if he has a bachelor's degree from an accredited college or university.

3. The applicant has met the education requirements by either completing the required training in detection or deception at a polygraph school approved by the department, or by submitting evidence of satisfactory completion of substantially equivalent training if the polygraph school at which the applicant received the training in the detection or deception is not approved by the department.

4. The applicant has completed six months as a registered intern examiner under the personal and direct on-premise supervision of an examiner qualified under § 2.3 who shall supervise each and every polygraph examination administered by the intern. The internship need not be accomplished in Virginia. However, any internship conducted outside of Virginia must comply fully with this regulation. An intern shall not be eligible to sit for the license examination until the intern's supervisor has submitted to the department a written statement that the internship has been satisfactorily completed.

The department may waive the internship for any person who practiced polygraphy in the federal jurisdiction.

5. The applicant is in good standing as a licensed polygraph examiner in every jurisdiction where licensed. The applicant must disclose if he has had a license as a polygraph examiner which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. At the time of application for licensure, the applicant must also disclose any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a polygraph examiner and whether he has been previously licensed in Virginia as a polygraph examiner.

6. The applicant is fit and suited to engage in the profession of polygraphy. The applicant must disclose if he has been convicted in any jurisdiction of a

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felony or misdemeanor involving lying, cheating, stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in the evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

7. The applicant has disclosed his physical address. A post office box is not acceptable.

8. The nonresident applicant for a license has filed and maintained with the department an irrevocable consent for the department to serve as a service agent for all actions filed in any court in this Commonwealth.

9. The applicant has signed, as part of the application, an affidavit certifying that he has read and understands the Virginia polygraph examiner's license law and the regulations of the board.

10. The applicant has submitted two fingerprint cards with his application on forms provided by the department for a criminal background history.

B. The department may (i) make further inquiries and investigations with respect to the qualifications of the applicant, (ii) require a personal interview with the applicant, (iii) or both. Failure of an applicant to comply with a written request from the advisory board or director for additional information within 30 days of receiving such notice, except in such instances where the advisory board or director has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

C. The applicant shall pass all parts of the polygraph examiners licensing examination approved by the department at a single administration in order to be eligible for a polygraph examiners license.

## § 2.2: Experience required.

All applicants shall have a high school diploma or its equivalent and a minimum of five years' experience as an investigator, detective, or in a field acceptable to the department which demonstrates the ability to practice polygraph.

## § 2.3: Experience required, exceptions.

A. Two years of the five years of experience required in § 2.2 shall be credited to applicants with an associate degree from an accredited college or university.

B. All five years of experience required in § 2.2 shall be credited to applicants with a bachelor's degree from an accredited college or university.

## § 2.4: Education required.

The applicant shall either successfully complete the required training in detection of deception at a polygraph school approved by the department, or submit evidence of satisfactory completion of substantially equivalent training if the polygraph school at which the applicant received training in the detection of deception is not approved by the department.

## § 2.5: Internship required.

The applicant must complete six months as a registered intern examiner under the personal and direct on-premise supervision of an examiner qualified under § 2.9 who shall supervise each and every polygraph examination administered by the intern. The internship need not be accomplished in Virginia. However, any internship conducted outside of Virginia must comply fully with this regulation.

No intern shall be eligible to sit for the license examination until the intern's supervisor has submitted to the department a written statement that the internship has been satisfactorily completed.

## § 2.6: Examination required.

The applicant must pass all parts of a polygraph examiner licensing examination approved by the department at a single administration in order to be eligible for a polygraph examiner's license.

## § 2.7: 2.2. Registration of polygraph examiner interns.

A. A polygraph examiner intern registration shall be issued to applicants who fulfill the requirements of §§ 2.2 through 2.4 subdivisions A 2 and A 3 of § 2.1.

A. B. An intern registration shall be valid for 12 months from the date of issue as indicated on the registration.

B. C. Each intern shall be supervised by a licensed polygraph examiner who meets the qualifications in § 2.9 2.3.

D. A polygraph intern may apply for an extension of a polygraph intern registration after the expiration of the initial intern registration for no more than one year by submitting the fee referenced in § 2.7. Additional extensions will be allowed if the individual repeats the education requirements set forth in subdivision A 3 of § 2.1.

## § 2.8: Continued registration as a polygraph intern after the expiration of the initial intern registration.

A. A person applying for an extension of a polygraph intern registration shall submit the fee referenced in § 2.1(C); and

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~~B. The registration may be extended for no more than one year except that additional extensions will be allowed if the individual repeats the education requirements set forth in § 2.4.~~

~~§ 2.9. 2.3. Qualifications for licensed polygraph examiners to act as supervisors of polygraph interns.~~

~~Each supervisor for a registered intern examiner shall be currently licensed and have held a valid Virginia examiner's license for three years or submit evidence satisfactory to the department that he has qualifications that are substantially equivalent to those required herein.~~

~~§ 2.10. 2.4. Procedures for licensed polygraph examiners to certify the procedures to be used to supervise an intern during an internship.~~

~~A. Each licensee supervising an intern shall file with the application of the intern a description of the following:~~

- ~~1. The frequency of contact between the licensee and the intern; and~~
- ~~2. The procedures to be employed by the licensee in reviewing and evaluating the intern's performance; and~~
- ~~3. The polygraph technique(s) to be used.~~

~~B. The licensee supervising the intern shall review the intern's charts prior to the rendering of any opinion or conclusion on any polygraph examination administered by the intern.~~

~~§ 2.11. Waiver of requirements.~~

~~§ 2.5. Qualifications for licensure by reciprocity.~~

~~The department may license by reciprocity any person licensed and in good standing. An individual who is currently licensed as a polygraph examiner in another jurisdiction where a formal reciprocal licensing agreement has established that may obtain a Virginia license provided the requirements were and standards under which the license was issued are substantially equivalent to those in Virginia at the time licensure as granted.~~

~~The department may waive the internship for any person who practiced polygraphy in the federal jurisdiction. An individual applying for licensure by reciprocity shall have been a licensed examiner engaged in the practice of polygraphy for at least 12 consecutive months prior to application.~~

~~§ 2.6. Waiver of internship requirement.~~

~~Any federal employee or military personnel who have administered polygraph examinations as one of their duties in their respective jobs, and who have received training from the federal government or United States military, may obtain a Virginia polygraph examiner's~~

~~license without fulfilling the internship requirement by successfully passing the board's written examination.~~

~~§ 2.12. Approval of polygraph school curriculum.~~

~~Each school desiring to teach polygraphy shall submit its curriculum to the department for approval. The curriculum shall meet the following minimum requirements:~~

~~1. There shall be one type of accepted polygraph instrument per three students in the course;~~

~~2. The duration of instruction shall not be less than 240 hours; unless the school has obtained approval from the department for a shorter duration of instruction;~~

~~3. Each out-of-state school approved by the state in which it is located shall have the appropriate regulatory agency of that state certify such approval to the department;~~

~~4. The curriculum shall encompass the following subject areas:~~

~~a. Polygraph theory;~~

~~b. Examination techniques and question formulation;~~

~~c. Polygraph interrogation;~~

~~d. Case observation;~~

~~e. Polygraph case practice;~~

~~f. Chart interpretation;~~

~~g. Legal aspects of polygraphy;~~

~~h. Physiological aspects of polygraphy;~~

~~i. Psychological aspects of polygraphy;~~

~~j. Instrumentation;~~

~~k. History of polygraph; and~~

~~l. Reviews and examinations.~~

~~5. Any person teaching the subjects required by this regulation shall meet the following minimum requirements for the subjects to be taught:~~

~~a. Legal aspects of polygraph examination. The instructor must be a member of the Virginia Bar.~~

~~b. Polygraph interrogation. The instructor must have five years experience in the field of interrogation.~~

~~c. Physiological aspects of polygraphy. The instructor~~

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must have a degree in a health related science with coursework in physiology from an accredited institution of higher learning.

d. Psychological aspects of polygraphy. The instructor must have a degree in psychology from an accredited institution of higher learning.

e. All other courses may be taught by individuals having at least five years of experience as a polygraph examiner.

f. The department may make exception to the above qualifications when an instructor is otherwise qualified by education or experience and provides such evidence in writing to the department.

Schools may be required to submit evidence of compliance with this regulation on a quarterly basis and shall allow observations of their compliance by the department's designated representatives.

## § 2.7. Fees.

A. All application fees for licenses and registrations are nonrefundable and shall not be prorated. The date of receipt by the department is the date which will be used to determine whether or not the fee is on time.

B. Application and examination fees must be submitted with the application for licensure. All other fees are discussed in greater detail in later sections of these regulations.

C. In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge shown below.

D. The following fees listed in the table apply:

FEE TYPE	AMOUNT	
	DUE	WHEN DUE
Application for Examiner's license	\$125	With application
Application for Intern Registration	\$85	With application
Dishonored Check	\$25	Upon notification by financial institution
Examination	\$125	With application
Reexamination	\$125	With approval letter
Renewal	\$110	Up to one calendar month after the expiration date on license
Reinstatement	\$220	One to six calendar months after the expiration date on license

Duplicate Wall Certificate \$25 With written request

Certificate of Licensure \$25 With written request

## § 2.8. Examinations.

All examinations required for licensure shall be approved by the advisory board and provided by the department, a testing service acting on behalf of the advisory board, or another governmental agency or organization.

Applicants for licensure shall pass a two-part licensing examination approved by the board, of which Part I is a written examination and Part II is an Advisory Board Evaluation. Applicants must pass the written examination in order to sit for the advisory board evaluation being administered the same day.

The applicant shall follow all the rules established by the department with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the department with regard to conduct at the examination shall be grounds for denial of application.

## PART III. RENEWAL.

### § 3.1. Renewal required.

Licenses issued under these regulations shall expire 12 months from the last day of the month in which the license was issued, as indicated on the license.

### § 3.2. Procedures for renewal.

The department will mail a renewal application form to the licensee at the last known home address. Failure to receive this notice shall not relieve the licensee of the obligation to renew. Prior to the expiration date shown on the license, each licensee desiring to renew his license must return to the department all required forms and the appropriate fee as referenced in § 2.7.

### § 3.3. Fees for renewal.

Licensees shall be required to renew their license by submitting the proper fee made payable to the Treasurer of Virginia. Any licensee who fails to renew within one calendar month after the license expires, shall be required to apply for reinstatement.

### § 3.4. Department discretion to deny renewal.

The department may deny renewal of a license for the same reasons as it may refuse initial licensure or



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discipline a licensee. The licensee is entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

Failure to timely pay a monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or examination administration.

## § 3.5. Qualifications for renewal.

Applicants for renewal of a license shall continue to meet the standards for entry as set forth in subdivisions A 5 through A 8 of § 2.1.

### PART IV. REINSTATEMENT.

## § 4.1. Reinstatement required.

A. Any licensee who fails to renew his license within one calendar month after the expiration date on the license shall be required to apply for reinstatement and submit the proper fee referenced in § 2.7.

B. Six calendar months after the expiration date on the license, reinstatement is no longer possible. To resume practice as a polygraph examiner, the former licensee must apply as a new applicant for licensure, meeting all educational, examination and experience requirements as listed in the regulations current at the time of reapplication.

C. Any examiner activity conducted subsequent to the expiration of the license may constitute unlicensed activity and may be subject to prosecution under § 54.1-111 of the Code of Virginia.

## § 4.2. Department discretion to deny reinstatement.

The department may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline a licensee. The licensee is entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding the services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or examination administration.

## § 4.3. Status of a license during the period before reinstatement.

A. When a license is reinstated, the licensee shall

continue to have the same license number and shall be assigned an expiration date one year from the previous date of the license.

B. A licensee who reinstates his license shall be regarded as having been continually licensed without interruption. Therefore, the licensee shall remain under the disciplinary authority of the department during this entire period. Nothing in these regulations shall divest the department of its authority to discipline a licensee for a violation of the law or regulations during the period of licensure.

### PART III. PART V. STANDARDS OF PRACTICE AND CONDUCT .

## § 3.1. Standards of practice to be explained in writing.

### § 5.1. Polygraph examination procedures.

A. Each licensed polygraph examiner and registered polygraph examiner intern must post, in a conspicuous place for the examinee, his license or registration, or a legible copy of his license or registration to practice in Virginia.

B. At the beginning of each polygraph examination, The examiner shall provide the examinee with a written explanation of the provisions of §§ ~~3.1~~ through ~~3.8~~ 5.1, 5.2, and 5.3 at the beginning of each polygraph examination .

## § 3.2. Examinee may request tape recording of examination.

C. The examiner shall tape record the examination administered to any The examinee who requests may request a tape recording of the polygraph examination being administered . Each examiner shall maintain tape recording equipment and tapes adequate for such recording. The examiner shall safeguard all examination recordings with the records he is required to keep by § ~~3.17~~ and ~~make the~~ 5.4. All recordings shall be made available to the department, the examinee or the examinee's attorney upon request. The examiner may charge the examinee a fee not to exceed \$25 only if the examinee requests and receives a copy of an examination tape recording.

## § 3.3. Examinee entitled to a copy of written report.

D. The examinee shall be entitled to a copy of all portions of any written report pertaining to his examination which is prepared by the examiner and provided to any person or organization . The examinee shall make his request in writing to the examiner. The examiner shall comply within 10 business days of providing the written report to any person or organization or receiving the examinee's written request, whichever occurs later. The examiner may collect not more than \$1.00 per page from the examinee for any copy provided.

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## § 3.4. Exceptions.

E. The provisions of §§ ~~3-1, 3-2, and 3-3~~ subsections B, C, and D of this section shall not be applicable to any examination conducted by or on behalf of the Commonwealth or any of its political subdivisions when the examination is for the purpose of preventing or detecting crime or the enforcement of penal laws. However, examiners administering examinations as described in this section shall comply with § ~~3-1~~ subsection B of this section through a verbal explanation of the provisions of §§ ~~3-5, 3-6, 5.2 and 3-7~~ 5.3 .

## § 3.5. 5.2. Examination pretest procedure.

A. Prior to administering any polygraph test, the examiner shall inform the prospective examinee of all the issues to be covered during the polygraph test examination and of all the items to be reported by the examiner to any other person.

## § 3.6. Written consent to examine.

B. The examiner shall obtain written permission from the prospective examinee to administer the examination after fulfilling the requirements of § ~~3-1~~ 5.1 , and before proceeding further with the administration of the examination.

## § 3.7. 5.3. Examination standards of practice.

A. To protect the rights of each examinee, the examiner shall comply with the following standards of practice by advising each examinee in the manner prescribed of each of the following standards of practice and shall not proceed to examine or continue the examination if it is or becomes apparent to the examiner that the examinee does not understand any one of these standards:

1. All questions to be asked during the polygraph test(s) shall be reduced to writing and read to the examinee.
2. The examinee or the examiner may terminate the examination at any time.
3. If the examination is within the scope of § 40.1-51.4:3 of the Code of Virginia, the examiner shall explain the provisions of that statute to the examinee.
4. No questions shall be asked concerning any examinee's lawful religious affiliations, lawful political affiliations, or lawful labor activities. This provision shall not apply to any such affiliation which is inconsistent with the oath of office for public law-enforcement officers.
5. The examinee shall be provided the full name of the examiner and the name, address, and telephone number of the department of Commerce .

## § 3.8. Sexual preference or sexual activity questions.

B. The examiners shall not ask questions during any part of a *pre-employment* polygraph examination concerning any an examinee's sexual preferences or sexual activities in accordance with § 40.1-51.4:3 of the Code of Virginia .

This section shall not be applicable to any examination conducted by, on behalf of, or required by any state or local government agency in the Commonwealth or its political subdivisions.

## § 3.9. Number of examinations.

C. An examiner shall not perform more than 12 polygraph examinations in any 24-hour period.

## § 3.10. Number of questions to be asked on a polygraph test.

D. An examiner shall not ask more than 16 questions *per chart* on a single polygraph test.

Nothing in this section subsection shall prohibit an examiner from conducting more than one polygraph test during a polygraph examination.

## § 3.11. Interval between polygraph test questions.

E. ~~Examiners~~ An examiner shall allow on every polygraph test a minimum time interval of 10 seconds between the examinee's answer to a question and the start of the next question.

## § 3.12. Polygraph test chart markings.

F. ~~Examiners~~ An examiner shall record at a minimum the following information on each polygraph test chart produced:

1. The name of the examinee;
2. The date of the examination;
3. The time that each test begins;
4. The examiner's initials;
5. Any adjustment made to component sensitivity;
6. The point at which each question begins and each answer is given;
7. Each question number; and
8. Each answer given by the examinee.

## § 3.13. Polygraph test evaluation.

G. ~~Examiners~~ An examiner shall render only three

# Proposed Regulations

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evaluations of polygraph tests:

1. Deception indicated;
2. No deception indicated; or
3. Inconclusive.

~~Examiners~~ *An examiner may include in their his report any information revealed by the examinee during the polygraph examination.*

Nothing in this section shall prohibit an examiner from explaining the meaning of the above evaluations.

## ~~§ 3.14. Chart analysis.~~

*H. An examiner shall not render a verbal or written report based upon polygraph test chart analysis without having conducted at least two polygraph tests. Each relevant question shall have been asked at least once on each of at least two polygraph tests.*

## ~~§ 3.15. Hiring or retention recommendations.~~

~~Examiners shall not make hiring or retention recommendations based solely on the results of a polygraph examination.~~

~~This section shall not prohibit an examiner from making a hiring or retention decision for the examiner's full-time employer.~~

*I. An examiner may make a hiring or retention recommendation for the examiner's full-time employer provided the hiring or retention decision is not based solely on the results of the polygraph examination.*

## ~~§ 3.16. Display of license.~~

~~Each licensed polygraph examiner and registered polygraph examiner intern shall post, in a conspicuous place for the examinee, his license or registration, or a legible copy of his license or registration to practice in Virginia.~~

## ~~§ 3.17. 5.4. Records.~~

The licensed polygraph examiner or registered polygraph examiner intern shall maintain the following for at least one year from the date of each polygraph examination:

1. Polygraphic charts.
2. Questions asked during the examination;
3. A copy of the results and the conclusions drawn;
4. A copy of any written report provided in connection with the examination.

5. Tape recordings of examinations made in compliance with ~~§ 3.2 subsection C~~ of § 5.1 .

~~§ 3.18. 5.5.~~ *Grounds for fines, denial, suspension or revocation of licenses or denial or withdrawal of school approval.*

The department may fine, deny, suspend, or revoke any license or registration, or deny or withdraw school approval upon a finding that the applicant, licensee, registrant, or school:

1. Has ~~misrepresented~~ *presented false or fraudulent information furnished* when applying for any license or registration, renewal of license or registration, or approval; ~~or~~

2. Has violated ~~or~~ , aided , or abetted ~~another in violating others to violate~~ Chapters 1 through 3 of Title 54.1 or §§ 54.1-1800 through 54.1-1805 of the Code of Virginia, or ~~of any regulation or rule issued pursuant to those laws; or other statute applicable to the practice of the profession herein regulated, or of any provisions of these regulations;~~

3. Has been convicted of any misdemeanor directly related to the occupation or any felony ; ~~or~~ . *Any pleas of nolo contendere shall be considered a conviction for the purposes of this section. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where the conviction occurred shall be forwarded to the board within 10 days of entry and shall be admissible as prima facie evidence of such conviction;*

4. Has made any misrepresentation or false promise or caused to be printed or otherwise disseminated any false or misleading advertisement; ~~or published any advertisement that is false, deceptive, or misleading;~~

5. Has allowed one's license or registration to be used by anyone else; ~~or~~

6. Has failed, within a reasonable *period of time*, to provide *any records or other information requested or demanded* by the department ; ~~or~~

7. *Has displayed professional incompetence or negligence in the performance of polygraphy.*

## ~~§ 5.6. Maintenance of license.~~

*A. Notice in writing shall be given to the department in the event of any change of business or individual name or address. Such notice shall be mailed to the department within 30 days of the change of the name or location. The department shall not be responsible for the licensee's or registrant's failure to receive notices, communications and correspondence caused by the licensee's or registrant's failure to promptly notify the department in writing of*

any change of name or address.

B. All licensees or registrants shall operate under the name in which the license or registration was issued.

## PART VI. APPROVAL OF POLYGRAPHY SCHOOL.

### § 6.1. Approval of polygraph school curriculum.

Schools seeking approval of their polygraph curriculum shall submit the application for approval of a polygraph school to the department for consideration. The application shall include:

1. The name and address of the school;
2. The name and address of the proprietor, partnership, corporation or association if different from the school name;
3. The owners of the school;
4. The names and qualifications of the instructors which shall be indicated on instructor qualifications form; and
5. The subject courses and the number of instruction hours assigned to each.

### § 6.2. Minimum requirements for school curriculum.

A. There must be one type of accepted polygraph instrument per three students in the course.

B. To receive approval, the institution must offer a minimum of 240 hours of instruction, unless the school has obtained approval from the department for less than the minimum hours of course instruction. The following subject areas in the school's curriculum must include:

1. Polygraph theory;
2. Examination techniques and question formulation;
3. Polygraph interrogation;
4. Case observation;
5. Polygraph case practice;
6. Chart interpretation;
7. Legal aspects;
8. Physiological aspects of polygraphy;
9. Psychological aspects of polygraphy;
10. Instrumentation;

11. History of polygraph; and

12. Reviews and examinations.

C. Out-of-state schools seeking approval of their curriculum which has been approved by their state must have the appropriate regulatory agency of their state certify such approval to the department.

### § 6.3. Instructor minimum requirements.

A. Any person teaching the subjects required by this regulation shall meet the following minimum requirements for the subjects to be taught:

1. Legal Aspects of Polygraph Examination. The instructor must be a member of the Virginia State Bar.
2. Polygraph Interrogation. The instructor must have five years experience in the field of interrogation.
3. Physiological Aspects of Polygraphy. The instructor must have a degree in a health related science with coursework in physiology from an accredited institution of higher learning.
4. Psychological Aspects of Polygraphy. The instructor must have a degree in psychology from an accredited institution of higher learning.
5. All other courses may be taught by individuals having at least five years of experience as a polygraph examiner.

B. The department may make exception to the above qualifications when an instructor is otherwise qualified by education or experience and provides such evidence in writing to the department.

C. Schools may be required to submit evidence of compliance with this section on a quarterly basis and shall allow observations of their compliance by the department's designated representatives.

V.A.R. Doc. No. R95-30; Filed September 28, 1994, 11:49 a.m.



Commonwealth of Virginia  
*Polygraph Examiners Advisory Board*

Department of Professional & Occupational Regulation  
P. O. Box 11066  
Richmond, Virginia 23230-1106  
(804) 367-8534

PROPOSED

APPLICATION FOR A POLYGRAPH EXAMINERS LICENSE/INTERN REGISTRATION

Please check proper category and submit appropriate fee. Make check or money order payable to the Treasurer of Virginia. All fees are nonrefundable.

\_\_\_ Examiner's License (Reciprocity) - \$125 \_\_\_ Examiner's Intern Registration - \$85

**PART I: TO BE COMPLETED BY ALL APPLICANTS**

- A. FULL NAME \_\_\_\_\_  
STREET ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
RESIDENCE PHONE ( ) \_\_\_\_\_ BUSINESS PHONE ( ) \_\_\_\_\_  
SOCIAL SECURITY NUMBER \_\_\_\_\_  
MAILING ADDRESS \_\_\_\_\_  
(if different from above)
- B. Have you ever pleaded guilty, entered a plea of nolo contendere, or been convicted of a misdemeanor involving lying, cheating, stealing, sex offense, drug distribution, or physical injury or any felony? \_\_\_ Yes \_\_\_ No If yes, explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- C. Have you ever had a license or registration revoked, suspended, or subject to disciplinary action (including probation, fine, reprimand, or surrendered) in any jurisdiction? \_\_\_ Yes \_\_\_ No If yes, explain, \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- D. Have you ever had a license as a Polygraph Examiner in the Commonwealth of Virginia? If yes, give License Number \_\_\_\_\_, and years held \_\_\_\_\_.
- E. Submit two completed fingerprint cards provided by the Department as required by §54.1-1804 of the Code of Virginia.

**PART II: EDUCATION/EXPERIENCE** - Please indicate education/experience by completing the appropriate section. Failure to complete this section may result in denial of application.

- A. COMPLETE THIS SECTION IF YOU ATTENDED A VIRGINIA APPROVED SCHOOL OF POLYGRAPH (Attach certified copy of transcript or diploma)  
Name of School \_\_\_\_\_  
Address \_\_\_\_\_  
Date of Graduation \_\_\_\_\_
- B. COMPLETE THIS SECTION IF YOU ATTENDED AN ACCREDITED COLLEGE OR UNIVERSITY (Attach certified copy of transcript)  
Name of College/University \_\_\_\_\_  
Address \_\_\_\_\_  
Degree Earned \_\_\_\_\_ Degree Field \_\_\_\_\_  
Date of Graduation \_\_\_\_\_
- C. COMPLETE THIS SECTION IF YOU RECEIVED EXPERIENCE AS AN INVESTIGATOR, DETECTIVE, OR IN A BEHAVIORAL SCIENCE RELATED FIELD. (A letter from your employer(s) confirming the information below must be attached)  
Name of Employer \_\_\_\_\_  
Address \_\_\_\_\_  
Dates of Employment (from) \_\_\_\_\_ (to) \_\_\_\_\_  
Description of duties \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(If additional space is needed, please attach sheet)
- D. COMPLETE PART III IF APPLYING FOR AN INTERN REGISTRATION.
- E. COMPLETE PART IV AND PART V IF APPLYING FOR A POLYGRAPH LICENSE VIA RECIPROCITY.

**PART III: INTERN SUPERVISOR QUALIFICATION AND ENDORSEMENT**  
Intern Supervisor shall complete this section for the applicant.

- A. Name of Intern Supervisor \_\_\_\_\_  
 VA Examiner License Number \_\_\_\_\_ Date of Issuance \_\_\_\_\_  
 Business Address \_\_\_\_\_
- B. Statement of frequency of contact between Intern Applicant and Intern Supervisor during the six month internship. \_\_\_\_\_  
 \_\_\_\_\_
- C. Procedure to be employed by the Intern Supervisor in reviewing and evaluating the Intern's performance. \_\_\_\_\_  
 \_\_\_\_\_
- D. Polygraph techniques(s) to be utilized. \_\_\_\_\_

**ENDORSEMENT BY LICENSED EXAMINER**

I hereby agree to supervise the internship of \_\_\_\_\_ as required by Regulations 2.1.4 and 2.4. I understand that I must provide personal and direct on-premises supervision, review all charts of the Intern prior to the rendering of any opinion or conclusion on any polygraph examination administered by the Intern and send the Department a written statement when the internship has been completed.

**AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OR CITY OF \_\_\_\_\_

The undersigned being duly sworn deposes and says that he is the person who executed this form, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.

\_\_\_\_\_  
Signature of Intern Supervisor

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Date commission expires

**PART IV: EXAMINER LICENSE BY RECIPROCITY**

Complete this section if you are currently licensed/registered as a Polygraph Examiner in another state.

- A. Name of Issuing Agency \_\_\_\_\_  
 Address \_\_\_\_\_  
 License Number \_\_\_\_\_ Date of Issuance \_\_\_\_\_  
 Expiration Date \_\_\_\_\_
- B. Provide the following additional documentation:
  1. Certification from the above referenced agency that your license/registration is in good standing in that jurisdiction.
  2. A copy of your current license/registration.
- C. Complete Part V regarding Irrevocable Consent for the Department to serve as service agent for all actions filed in any court within the Commonwealth of Virginia.

**PART V: IRREVOCABLE DESIGNATION OF AGENT FOR THE SERVICE OF PROCESS** (To be completed by all non-residents)

**KNOW BY ALL THESE MEN PRESENTS:**

The undersigned, \_\_\_\_\_, being a non-resident applicant for licensure as a Polygraph Examiner within the Commonwealth of Virginia, does hereby irrevocably designate and appoint the Director of the Virginia Department of Professional and Occupational Regulation, as his (her,its) agent for the purpose of accepting service of any and all processes issued by any court located in the Commonwealth of Virginia, as well as service of all pleadings and other papers, relating in any way to any action, suit or legal proceeding arising out of or pertaining to his (her,its) duties or responsibilities as a Polygraph Examiner in Virginia. The undersigned further consents, stipulates and agrees that any lawful process served upon the aforesaid agent shall have the same legal force and validity as if served upon the undersigned personally within \_\_\_\_\_ (State of Residence) and that the authority contained herein shall continue in force and effect so long as any liability against the undersigned remains outstanding in the Commonwealth of Virginia.

This \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature of Polygraph Examiner: \_\_\_\_\_

Commonwealth of Virginia  
*Polygraph Examiners Advisory Board*

Department of Professional & Occupational Regulation  
P. O. Box 11066  
Richmond, Virginia 23230-1106  
(804) 367-8534



**PROPOSED**

**APPLICATION FOR THE VIRGINIA POLYGRAPH EXAMINERS EXAMINATION**

Submit fee of **\$125** with application. Make check or money order payable to the Treasurer of Virginia. All fees are nonrefundable.

**PART I: CANDIDATE INFORMATION**

A. FULL NAME \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

HOME PHONE \_\_\_\_\_ BUSINESS PHONE \_\_\_\_\_

SOCIAL SECURITY NUMBER \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

B. DATE OF EXAMINATION APPLYING FOR: \_\_\_\_\_

C. NAME AND ADDRESS OF LICENSED EXAMINER WHO SUPERVISED YOUR INTERNSHIP.  
\_\_\_\_\_  
\_\_\_\_\_

D. ATTACH A LETTER FROM YOUR INTERN SUPERVISOR STATING THAT YOU HAVE COMPLETED A SIX-MONTH INTERNSHIP.

**PART II: AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OR CITY OF \_\_\_\_\_

The undersigned being duly sworn deposes and says that he/she is the person who executed this application, that the statements herein are true that he/she has not suppressed any information that might affect this application, and that he/she has read and understands this affidavit.

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature of Notary Public: \_\_\_\_\_ My commission expires: \_\_\_\_\_

**PART VI: AFFIDAVIT**

(TO BE EXECUTED BY ALL APPLICANTS BEFORE A NOTARY PUBLIC)

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_

The undersigned, in making application to the Virginia Polygraph Examiners Advisory Board, swears or affirms that he or she is the applicant named herein and that the answers and information contained herein are true to the best of his or her knowledge and belief, and that he or she has not withheld or suppressed any information that might affect this application, and that he or she has read and understands this affidavit.

The undersigned says that he or she has read and understands Chapter 18 of the Code of Virginia, and the regulations of the Advisory Board that govern Polygraph Examiners.

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

Signature of Notary Public: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires: \_\_\_\_\_



Commonwealth of Virginia  
**Polygraph Examiners Advisory Board**

Department of Professional & Occupational Regulation  
 3600 W. Broad Street  
 Richmond, Virginia 23230-4917  
 (804) 367-8534

**PROPOSED**

**APPLICATION FOR APPROVAL OF POLYGRAPH SCHOOL**

**PART I: SCHOOL INFORMATION**

A. NAME OF SCHOOL \_\_\_\_\_  
 SCHOOL ADDRESS \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
 TELEPHONE ( ) \_\_\_\_\_

B. PLEASE INDICATE TYPE OF SCHOOL OWNERSHIP:  
 \_\_\_ Sole Proprietor \_\_\_ Partnership \_\_\_ Corporation  
 \_\_\_ Other (please specify \_\_\_\_\_)

C. NAME AND ADDRESS OF PROPRIETOR, PARTNERSHIP, CORPORATION OR ASSOCIATION IF DIFFERENT FROM SCHOOL NAME.  
 \_\_\_\_\_

D. IF THE SCHOOL IS OWNED BY AN INDIVIDUAL OR PARTNERSHIP, LIST THE NAME(S) AND HOME ADDRESS(ES) OF THE OWNERS. IF THE SCHOOL IS OWNED BY A CORPORATION OR ASSOCIATION, LIST THE NAME(S) AND HOME ADDRESS(ES) OF THE PRESIDENT, VICE-PRESIDENT, SECRETARY AND TREASURER.

NAME	ADDRESS	TITLE

E. NAME OF DIRECTOR OR CHIEF ADMINISTRATOR OF SCHOOL: \_\_\_\_\_

Please note that this person must maintain a knowledge of Virginia's polygraph examiner regulations and is the person the Department of Professional and Occupational Regulation will contact to investigate complaints, arrange for inspections, etc.

**PART II: SCHOOL CURRICULUM**

A. The required school curriculum must offer a minimum of 240 hours of instruction.

SUBJECT	HOURS
Polygraph Theory	_____
Examination Techniques & Question Formulation	_____
Polygraph Interrogation	_____
Case Observation	_____
Polygraph Case Practice	_____
Chart Interpretation	_____
Legal Aspects of Polygraphy	_____
Physiological Aspects of Polygraph	_____
Psychological Aspects of Polygraph	_____
Instrumentation	_____
History of Polygraph	_____
Reviews and Examinations	_____
Other _____	_____
<b>TOTAL HOURS</b>	_____

B. List Instructors below and attach the Instructor Qualification Form for each.

NAMES OF INSTRUCTORS	SUBJECTS TO BE TAUGHT
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

(If additional space is needed, attach a sheet)

**PART III: CERTIFICATION OF COMPLIANCE**

I, \_\_\_\_\_, the Director or Chief Administrator of \_\_\_\_\_ (school) certify that I have presented true statements throughout this application form and its attachments to the best of my knowledge and belief. I agree to maintain a knowledge of the Virginia Polygraph Examiners Regulations, to cooperate with the Department of Professional and Occupational Regulation in any investigation or inspection, and to at all times comply with the Virginia Polygraph Examiners Regulations.

\_\_\_\_\_  
 Signature of Director/Administrator





Commonwealth of Virginia  
*Polygraph Examiners Advisory Board*

Department of Professional & Occupational Regulation  
 3600 W. Broad Street  
 Richmond, Virginia 23230-4917  
 (804) 367-8534

**PROPOSED**

**INSTRUCTOR QUALIFICATION FORM**

**PART IV: AFFIDAVIT**

STATE OF \_\_\_\_\_

CITY OR COUNTY OF \_\_\_\_\_

The undersigned being duly sworn deposes and says that he is the person who executed this application, that the statements herein contained are true to the best of his knowledge and belief, that he has not suppressed any information that might affect this application and that he has read and understands this affidavit.

\_\_\_\_\_  
 Signature of Director/Administrator

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Signature of Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

A. FULL NAME \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE (\_\_\_\_) \_\_\_\_\_

B. TEACHING CERTIFICATE HELD (if any): \_\_\_\_\_

C. LIST SUBJECTS INSTRUCTOR INTENDS ON TEACHING: (Refer to § 6.3 of the regulations regarding the minimum instructor requirements for teaching certain courses.)

\_\_\_\_\_  
 \_\_\_\_\_

D. EDUCATION

Name and Address of School	Degree Earned	Date Degree Awarded

E. EMPLOYMENT

Name and Address of Employer	Dates of Employment	Brief Job Description

F. CERTIFICATION

I certify that the foregoing statements and information are correct to the best of my knowledge and belief.

\_\_\_\_\_  
 Signature of School Director

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature of Instructor

\_\_\_\_\_  
 Date

# 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.

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulations: VR 615-08-1. Virginia Energy Assistance Program.

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

Effective Date: November 16, 1994.

### Summary:

*The amendments incorporate several changes to the Energy Assistance Program. The definition of a child was changed from under age 16 to under age six. Persons who live in one room in a larger dwelling and households who are responsible for paying excess usage charges will no longer be eligible for fuel assistance. Assistance with primary fuel, payment of electricity needed to operate the primary heating system were eliminated from the crisis assistance component. Assistance with the payment of a security deposit will be restricted to the primary heat type in crisis assistance. The cooling assistance component will be eliminated.*

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Richard Martin, Regulatory Coordinator, Department of Social Services, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1825. There may be a charge for copies.

VR 615-08-1. Virginia Energy Assistance Program.

## PART I. DEFINITIONS.

### § 1.1. Definitions.

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

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement Disability, 100%

Veterans Administration disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Energy-related," "weather-related," or "supply shortage emergency" means a household has: no heat or an imminent utility cutoff ; or [ inoperable or unsafe no single source of operable or safe ] heating equipment ; major air infiltration of housing unit; or a need for air conditioning because of medical reasons .

"Fiscal year" means October 1 through September 30.

"Household" means an individual or group of individuals who occupies a housing unit and functions as an economic unit by: purchasing residential energy in common (share heat), or making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary heating system" means the system that is currently used to heat the majority of the house [ ~~vented heater, furnace~~. An unvented or portable heater cannot be considered as the primary heating system ].

[ "Program year" means ] the specified timeframe established for each of the program components by the department: [ July 1 to June 30. ]

"Resources" means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of \$900, or any other similar resource which can be liquidated in not more than 60 days.

## PART II. FUEL ASSISTANCE.

### § 2.1. Eligibility criteria; transfer of resources.

[ A. ] The purpose of the fuel assistance component is to provide heating assistance to eligible households to offset the costs of home heating energy that are excessive in relation to household income.

# Final Regulations

[ ~~A. Eligibility criteria.~~ B. Eligibility criteria is set out in this subsection. ]

1. Income limits. Maximum income limits shall be at or below 130% of the poverty guidelines. In order to be eligible for fuel assistance, a household's [ ~~countable~~ ] income must be at or below the maximum income limits. [ ~~Income considered exempt will be determined by the Board of Social Services.~~ ]

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be \$3,000. The resource limit for all other households shall be \$2,000. *In addition, any individual or family applying for or receiving assistance under the fuel assistance programs may have or establish one interest-bearing savings account per assistance unit not to exceed \$5,000 at a financial institution for the purpose of paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university or for making a down payment on a primary residence. Any funds deposited in the account and any interest earned thereon, and any amounts withdrawn from the account for the purposes stated in this section shall be exempt from consideration in any calculation.* In order to be eligible for fuel assistance, a household's countable resources must be at or below the amount specified.

3. Alien status. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.

[ 4. Ineligible households. The households that are ineligible to receive fuel assistance are:

a. Subsidized households whose total heating costs are included in their rent.

b. Persons living in institutions.

c. Persons living in temporary shelters or group homes who have no heating expense or who pay a nominal fee to live there.

d. Persons who reside in only one room within a larger dwelling.

e. Subsidized households who are responsible for payment of individual excess fuel usage charges even though heating expenses are included in their rent. ]

[ B. Resource transfer. C. ] Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year

of application for fuel assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become eligible for fuel assistance;
2. The resource was less than the allowable resource limit;
3. The disposition or transfer was done without the person's full understanding.

## § 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest benefit given to households with the least income and the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern, Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

~~Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.~~

Each year the benefit amounts for each household shall be determined by state computer using the following method:

A. 1. The following factors for each household will be assigned a point value:

- a. Gross monthly income
- b. Living arrangements
- c. Primary heat type
- d. Climate zone
- e. Vulnerability

(1) Person 60 years of age or older

(2) Disabled person in HH

(3) Child under [ 16 six ]

Point values will be determined by department staff.

B. 2. The total points of all households will be determined.

3. The available benefit dollars will be divided by the point total to determine a point dollar value.

4. The household's benefit amount will be calculated by multiplying the household's point total by the value per point.

### [ 2.3. Exceptions:

*Benefits will be the same for all households with the same income, household size, geographic area and fuel type, except for the following:*

1. Roomers occupying only one room will be eligible for a maximum benefit that is one-half of the maximum benefit that other households with the same income, household size, geographic area, and fuel type are eligible to receive.

2. Subsidized households will be eligible for the following maximum benefits depending on whether heat is included in their rent. If heat is included in their rent but they are responsible for excess fuel usage charges, their maximum benefit will be one-quarter of the benefit that other households with the same income, household size, geographic area and fuel type are eligible to receive.

3. If heat is not included in the rent and the household receives a utility allowance/subsidy and is responsible for making some out-of-pocket expenditures towards the cost of home heating, the maximum benefit amount for the household will be reduced by the amount of the utility allowance. ]

### [ § 2.4. § 2.3. ] Application period.

The application period for fuel assistance shall begin not earlier than September 1 and shall end not later than March 31 each year. The Board of Social services shall set specific dates within that period for acceptance of fuel assistance applications.

## PART III. CRISIS ASSISTANCE.

### § 3.1. Eligibility criteria; benefits.

[ A. ] The purpose of the crisis assistance component is to assist households with energy-related, weather-related or supply shortage emergencies. This component is intended to help the household meet energy emergencies that cannot be met by the fuel assistance component or other heat resources.

[ A. Eligibility criteria. B. ] In order to be eligible for crisis assistance, a household shall meet the following criteria:

1. All of the fuel assistance criteria as set forth in Part II, § 2.1;

2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;

3. Other resources cannot meet the emergency (including fuel assistance);

4. Did not receive crisis assistance maximum benefit during the current fiscal [ program ] year ; .

5. For assistance with primary heat source, did not receive Fuel Assistance in current program year.

### [ B. Benefits: ]

[ An eligible household can receive no more than \$200 for crisis assistance during any federal fiscal program year, unless the assistance is for the rebuilding or replacement of heating equipment or purchase of heating equipment where none exists, in which case the maximum amount of assistance shall be \$700. C. The Board of Social Services shall set benefit amounts for each type of assistance offered based on the availability of funding. ]

The following forms of assistance shall be provided:

1. Repairs, Repair [ or replacement ] or rebuilding of inoperable or unsafe heating equipment, including necessary maintenance cost of heating equipment and the purchase of supplemental equipment.

[ 2. Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to \$200 maximum. Assistance may be provided once every five years. ]

[ 3. 2. ] A one-time-only payment [ per fuel type of a heat-related utility for a ] security deposit [ for the primary fuel type ].

4. Providing space heaters.

5. [ 4. 3. ] Providing emergency shelter.

6. Purchase 30-day supply of home heating fuel when the household is out of fuel or to prevent the disconnection of a primary utility heat source. Assistance will be provided during a specified timeframe. The Board of Social Services will establish maximum payment amounts.

[ 5. 4. ] Purchase of heating equipment [ where none exists ] .

### § 3.2. Application period.

The application period for crisis assistance shall begin not earlier than September 1 and shall end not later than March 31 each year [ unless funds are depleted earlier ]. The Board of Social Services shall set specific dates within that period for the acceptance of crisis assistance applications.

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## PART IV. COOLING ASSISTANCE.

§ 4.1. Cooling Assistance is an optional component of the Energy Assistance Program that is designed to provide help to persons medically in need of cooling assistance due to the heat.

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their crisis allocation and will provide the assistance no earlier than June 15 through no later than August 31.

### A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the fuel assistance eligibility criteria and must be in critical medical need of cooling.

### B. Benefits.

The assistance is limited to: no more than \$200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than \$400 for purchasing an air conditioner.

## PART V. IV. ADMINISTRATIVE COSTS.

§ 5.1, § 4.1. [ *Administrative costs.* ]

Local administrative expenditures for the implementation of the Energy Assistance Program shall not be reimbursed in excess of 7.0% of program grant allocation.

V.A.R. Doc. No. R94-1210; Filed September 27, 1994, 11:55 a.m.

## STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-22. Virginia Pollution Abatement General Permit for ~~Concentrated or Intensified~~ Confined Animal Feeding Operations of Swine, Dairy, and Slaughter and Feeder Cattle .

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

Effective Date: November 16, 1994.

### Summary:

The Virginia Pollution Abatement (VPA) permit program authorizes the pollutant management activities at confined animal feeding operations which may involve the operation and maintenance of treatment works for waste storage, treatment or recycling and the land application of wastewater and sludges. All pollutant management activities are required to maintain no point source discharge of pollution to state waters except in the case of a storm event

greater than the 25-year, 24-hour storm. A confined animal feeding operation is one at which more than 300 animal units are confined utilizing a liquid manure collection and storage system.

The purpose of this regulation is to authorize the management of pollutants or activities at confined animal feeding operations through the adoption of a general permit. The final regulation revises the procedures for submitting a registration statement to obtain coverage under the general permit; establishes the standard criteria for the design and operation of the treatment works for waste storage, treatment or recycle and for the land application of wastewater or sludges; and establishes minimum monitoring and reporting requirements.

The 1994 session of the General Assembly amended the State Water Control Law regarding general permits for confined animal feeding operations. This legislation combined intensified and concentrated animal feeding operations into a single classification of confined animal feeding operations with 300 or more animal units utilizing a liquid manure collection and storage system. The legislation also set the permit term for confined animal feeding operations at 10 years. This final regulation also incorporates technical changes authorized by the State Water Control Board at its May 23, 1994, meeting to comply with the new legislation. The technical changes made provide for a VPA General Permit for Confined Animal Feeding Operations with a term of 10 years.

In addition, in response to requests from more than 25 persons, the department sought additional comment on the changes to the final regulation. As a result of the comments received, the board made one additional change which was the addition of paragraph 11 in Part I A.

The Department of Environmental Quality will administer this program. Upon receipt of a complete registration statement, the applicant will be notified of coverage and will receive a copy of the general permit which will authorize the pollutant management activities at confined animal feeding operations.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Cindy M. Berndt, Regulatory Coordinator, Department of Environmental Quality, 4900 Cox Road, Glen Allen, VA 23060, telephone (804) 762-4378. There may be a charge for copies.

VR 680-14-22. Virginia Pollution Abatement General Permit for Confined Animal Feeding Operations.

## § 1. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Permit Regulation (VR 680-14-01) unless the context clearly indicates otherwise, except that for the purposes of this regulation.

[ "Confined animal feeding operation" means a lot or facility, together with any associated treatment works, where both of the following conditions are met:

1. Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and
2. Crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility. ]

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality or his designee.

"Permittee" means the owner whose [ ~~concentrated or intensified confined~~ ] animal feeding operation [ ~~for swine, dairy or slaughter and feeder cattle~~ ] is covered under this general permit.

"Waste storage facility" means a waste holding pond or tank used to store manure prior to land application, or a lagoon or treatment facility used to digest or reduce the solids or nutrients.

## § 2. Purpose.

This general permit regulation governs the pollutant management activities of animal wastes at [ ~~intensified confined~~ ] animal feeding operations [ ~~for swine, dairy, and feeder and slaughter cattle but less than 1,000 animal units and concentrated confined animal feeding operations having 1,000 or more having 300 or more animal units utilizing a liquid manure collection and storage system~~ ]. These [ ~~concentrated or intensified confined~~ ] animal feeding operations may operate and maintain treatment works for waste storage, treatment or recycle and may perform land application of wastewater or sludges.

## § 3. Delegation of authority.

The director [ , or his designee, ] may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

## § 4. Effective date of the permit.

This general permit will become effective on [ ~~XXX~~ July 13 November 16, 1994 ]. This general permit will

expire [ ~~five years from the effective date for concentrated confined animal feeding operations and~~ ] 10 years from the effective date [ ~~for intensified confined animal feeding operations~~ ]. Any covered owner is authorized to manage pollutants, that are not point source discharges to state waters, under this general permit upon compliance with all the provisions of §§ 5 and 6 and the receipt of this general permit.

## § 5. Authorization to manage pollutants.

Any owner governed by this general permit is hereby authorized to manage pollutants at [ ~~concentrated or intensified confined~~ ] animal feeding operations [ ~~for swine, dairy, and slaughter and feeder cattle~~ ] provided that the owner files [ ~~and receives acceptance, by the director, of~~ ] the registration statement of § 6, complies with the requirements of § 7, and provided that:

1. The owner shall not have been required to obtain an individual permit as may be required in the Permit Regulation. Currently permitted operations may [ submit a registration statement for operation under the general permit and ] be authorized under this general permit [ ~~after an existing permit expires~~ ] provided that the criteria of the general permit are met.

2. The operation of the facilities of the owner shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law. There shall be no point source discharge of wastewater except in the [ ~~event case~~ ] of a [ ~~storm event greater than the~~ ] 25-year, 24-hour [ ~~or greater~~ ] storm [ ~~event~~ ]. Domestic sewage or industrial waste shall not be managed under this general permit.

3. The owner of any proposed pollutant management activities or those which have not previously been issued a valid Virginia Pollution Abatement (VPA) permit or Industrial Waste-No Discharge (IW-ND) Certificate must attach to the registration statement [ ~~notification from the governing body of the county, city or town in which the activities are to take place that the location and operation of the facility is consistent with all ordinances adopted pursuant to Chapter 11 (§ 15-2-427 et seq.) of Title 15-1 of the Code of Virginia; the notification from the governing body of the county, city or town required by § 62.1-44.15:3 of the Code of Virginia.~~ ]

4. A Nutrient Management Plan (NMP) for the facility must be approved by the Department of Conservation and Recreation (DCR) [ ~~; Division of Soil and Water Conservation (DSWC)~~ ] prior to the submittal of the registration statement. The owner of the pollutant management activities shall attach to the registration statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan.

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Receipt of this general permit does not relieve any owner of the responsibility to comply with any other [ applicable ] federal, state or local statute, ordinance or regulation.

## § 6. Registration statement.

The owner shall file a complete VPA General Permit Registration Statement for the management of pollutants at [ concentrated or intensified confined ] animal feeding operations [ for swine, dairy, and slaughter and feeder cattle ] in accordance with this regulation.

Any owner proposing a new pollutant management activity shall file a complete registration statement [ at least 30 days prior to the date planned for commencing erection or construction of new processes at any site. There shall be no operation of said facilities prior to coverage under a permit ]. Any owner with an existing pollutant management activity covered by an individual VPA permit who is proposing to be covered by this general permit shall file a complete registration statement [ at least 180 days prior to the expiration date of the individual VPA permit ].

The required registration statement shall be in the following form:

### COMMONWEALTH of VIRGINIA

#### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### VIRGINIA POLLUTION ABATEMENT GENERAL PERMIT REGISTRATION STATEMENT FOR [ CONCENTRATED OR INTENSIFIED CONFINED ] ANIMAL FEEDING OPERATIONS [ FOR SWINE, DAIRY, AND SLAUGHTER AND FEEDER CATTLE ]

1. Facility Name:

Address:

City:

State: Zip Code:

2. Owner Name:

Address:

City:

State: Zip Code:

Phone:

3. Operator Name:

Address:

City:

State: Zip Code:

Phone:

Facility Contact:

Phone:

Best Time to Contact (day time):

4. Does this facility have an existing VPA permit or IW-ND Certificate?

Yes/No

If yes, list the existing VPA Permit Number or IW-ND Certificate Number:

5. Indicate the maximum number and average weight of the type(s) of animal which will be maintained at your facility:

Animal Type	Maximum Number	Average Weight
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Dairy Cattle  
Slaughter and Feeder Cattle  
Swine  
[ other ]

[ 6. Indicate the number and type of waste storage facilities at the site.

No.	Type	Existing	Proposed
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Earthen storage basin  
Clay Lined  
Synthetic Liner  
Concrete Tank  
Steel Tank

7. List any waste other than manure (e.g., wash down, dairy parlor waste or sewage) which may be discharged to the storage facility:

8. Will any of the waste generated at your facility be land applied?

Yes/No

9. Are all the land application sites owned by the applicant?

Yes/No

If No, complete page 4 of this Registration Statement for each nonapplicant land owner on whose property

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animal waste from this facility will be applied. ]

[ ~~10~~. 6. ] The owner of any proposed pollutant management activities or those which have not previously been issued a valid VPA permit or IW-ND Certificate must attach to the registration statement [ notification from the governing body of the county, city or town in which the activities are to take place that the location and operation of the facility are consistent with all ordinances adopted pursuant to Chapter 11 (§ 15.2-427 et seq.) of Title 15.1 of the Code of Virginia; the notification from the governing body of the county, city or town required by § 62.1-44.15:3 of the Code of Virginia. ]

[ ~~11~~. 7. ] The owner of the pollutant management activities must attach to the registration statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan.

[ ~~12~~. 8. ] Certification:

"I certify under penalty of law that [ all the requirements of the board for the general permit are being met and that ] this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

Print Name:

Title:

Signature:

Date:

## [ AUTHORIZATION TO LAND APPLY WASTE

(Land Owner Must Sign and Date This Approval)

As land owner, I authorize..... to land apply animal waste to my property in accordance with the requirements of the VPA General Permit for Intensified Animal Feeding Operations. This authorization will remain in effect until such time as I notify the Department of Environmental Quality, Water Division in writing that this authorization has been withdrawn.

PRINT NAME:

SITE LOCATION:

PHONE:

DATE:

SIGNATURE: ]

§ 7. General permit.

Any owner [ whose who submits a complete ] registration statement [ is accepted by the director ] will receive the following general permit and shall comply with the requirements therein and be subject to the permit regulation.

General Permit No.: VAG000xxx

Effective Date:

Expiration Date [ for Intensified Operations ] :

[ Expiration Date for Concentrated Operations: ]

GENERAL PERMIT FOR POLLUTANT  
MANAGEMENT ACTIVITIES FOR [   
CONCENTRATED OR INTENSIFIED CONFINED ]  
ANIMAL FEEDING OPERATIONS [ FOR SWINE,  
DAIRY, AND SLAUGHTER AND FEEDER CATTLE  
]

AUTHORIZATION TO MANAGE POLLUTANTS  
UNDER THE VIRGINIA POLLUTION  
ABATEMENT PROGRAM AND THE VIRGINIA  
STATE WATER CONTROL LAW

In compliance with the provisions of the State Water Control Law and State Water Control Board regulations adopted pursuant thereto, owners of [ intensified confined ] animal feeding operations [ for swine, dairy, and slaughter and feeder cattle but less than 1,000 animal units and concentrated confined animal feeding operations having 1,000 or more having 300 or more animal units utilizing a liquid manure collection and storage system ] are authorized to manage pollutants within the boundaries of the Commonwealth of Virginia, except where board regulations or policies prohibit such activities.

The authorized pollutant management activities shall be in accordance with the registration statement, supporting data submitted to the Department of Environmental Quality, Water Division, this cover page, Part I [ - Management and Monitoring Requirements ], Part II [ - Monitoring and Reporting ], and Part III [ - Management Requirements ], as set forth herein.

PART I.  
[ MANAGEMENT AND MONITORING  
REQUIREMENTS. ]

A. Management and monitoring requirements.



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1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to manage pollutants at the permitted site.

2. Groundwater monitoring wells shall be installed at new earthen waste storage facilities [ located east of Interstate 95 including the eastern shore prior to any waste being placed in the storage facility. A minimum of one up gradient and one down gradient well shall be installed at each earthen waste storage facility. One data set shall be collected from each well prior to any waste being placed in the storage facility. constructed to an elevation below the seasonal high water table or within one foot thereof. ] Existing wells may be utilized to meet this requirement if properly located and constructed.

3. All facilities previously covered under a VPA permit that required groundwater monitoring shall continue monitoring consistent with the requirements listed below regardless of where they are located [ in the state relative to the seasonal high water table ] .

4. In accordance with A 2 and A 3 above, the ground water shall be monitored by the permittee at the monitoring wells as specified below:

## GROUNDWATER MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Static Water Level	NL	ft	[ 1/6 months 1/3 years ]	Measured
Ammonia Nitrogen	NL	mg/l	[ 1/6 months 1/3 years ]	Grab
Nitrate Nitrogen	NL	mg/l	[ 1/6 months 1/3 years ]	Grab
pH	NL	SU	[ 1/6 months 1/3 years ]	Grab
Conductivity	NL	umhos/cm	[ 1/6 months 1/3 years ]	Grab

NL = No limit, this is a monitoring requirement only.

[ 5. The static water level shall be measured prior to bailing well water for sampling. At least three well volumes of groundwater shall be withdrawn immediately prior to sampling each monitoring well. ]

[ 6. 5. ] Soil monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.

[ 7. 6. ] The soils at the facility shall be monitored by the permittee as specified below:

## SOILS MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
pH	NL	SU	[ 1/1 year 1/3 years ]	Composite
Phosphorus	NL	ppm	[ 1/1 year 1/3 years ]	Composite
Potash	NL	ppm	[ 1/1 year 1/3 years ]	Composite
Calcium	NL	ppm	[ 1/1 year 1/3 years ]	Composite
Magnesium	LN	ppm	[ 1/1 year 1/3 years ]	Composite
Nitrate	LN	ppm	[ 1/1 year 1/3 years ]	Composite

NL = No limit, this is a monitoring requirement only.

[ 8. 7. ] Soil monitoring should be conducted at a depth of between 0-6". The Nitrate test is required [ only at a soil depth of 0-12" ] on those sites planted in corn or small grains [ at a soil depth of 0-12" ].

[ 9. 8. ] Waste monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.

[ 10. 9. ] The waste at the facility shall be monitored by the permittee as specified below:

## WASTE MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Total Kjeldahl Nitrogen	NL	ppm	1/year	Composite
Ammonia Nitrogen	NL	ppm	1/year	Composite
Total Phosphorus	NL	ppm	1/year	Composite
Total Potassium	NL	ppm	1/year	Composite
Calcium	NL	ppm	1/year	Composite
Magnesium	NL	ppm	1/year	Composite
Moisture Content	NL	%	1/year	Composite

NL = No limit, this is a monitoring requirement only.

[ 11. 10. ] All monitoring data collected as required by Part I A shall be maintained on site in accordance with Part II C [ and submitted upon request and during the reissuance process with the registration statement ] .

[ 12. 11. The following recommendations will assist

the permittee in performing proper monitoring. The Department of Environmental Quality may be contacted for additional guidance on monitoring procedures.

a. A minimum of one up gradient and one down gradient well should be installed at each new earthen waste storage facility.

b. One data set should be collected from each well prior to any waste being placed in the storage facility.

c. The static water level should be measured prior to bailing well water for sampling.

d. At least three well volumes of groundwater should be withdrawn immediately prior to sampling each monitoring well.

e. Soil monitoring should be conducted at a depth of between 0-6 inches.

f. The nitrate test should be conducted at a soil depth of 0-12 inches on those sites planted in corn or small grains.

12. The department encourages the permittee to conduct additional monitoring. All additional monitoring, if any, should be conducted under the oversight of the department. If the permittee conducts additional monitoring in response to a written request from another person, the permittee may request that the person making the request bear the cost of the additional monitoring. ]

## B. Other requirements or special conditions.

[ 1. There shall be no discharge of pollutants to surface waters from this operation except in the case of a 25-year, 24-hour or greater storm event. The operation of the facilities of the owner permitted herein shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law.

2. Any and all product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, byproduct or wastes, shall be handled, disposed of, or stored in such a manner so as not to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters, except as expressly authorized. ]

[ 3. 1. ] The [ waste storage facilities liquid manure collection and storage facility ] shall be designed and operated to [ (i) ] prevent point source discharges of pollutants to state waters except in the case of a [ storm event greater than the ] 25-year, 24-hour [ or

greater ] storm [ event, and (ii) provide ] adequate waste storage capacity [ must be present ] to accommodate periods when the ground is frozen or saturated, periods when land application of nutrients should not occur due to limited or nonexistent crop nutrient uptake, and periods when physical limitations prohibit the land application of waste. [ The minimum storage capacity requirements shall be based upon the approved nutrient management plan. ]

[ 4. 2. ] New waste storage facilities shall not be located on a [ 100-year ] floodplain unless protected from inundation [ or damage ] by a 100-year frequency flood event.

[ 5. 3. ] New earthen waste storage facilities shall [ be constructed with a 2-foot separation distance between the bottom of the storage facility and the seasonal high water table, include a properly designed and installed liner. ]

[ 6. For new earthen waste storage facilities, the soils used as lagoon liners shall be capable of achieving a maximum coefficient of permeability of  $1 \times 10^{-6}$  cm/sec or less throughout the impoundment sides and bottom after compaction at or up to 4 percent above the optimum moisture content to at least 95% Standard Proctor Density. Total soil liner thickness shall be one foot after compaction of two separate lifts of equal thickness. The final permeability rate shall be verified by a professional engineer or a soils laboratory. Should a synthetic liner be chosen, the liner thickness shall not be less than 20 mils and shall be compatible with the waste, and be appropriately protected from puncture both below and above the liner. Written certification ensuring lagoon liner integrity and proper installation shall be made, prior to the waste storage facility being placed in operation. Such liner shall be either a synthetic liner of at least 20 mils thickness or a compacted soil liner of at least one foot thickness with a maximum permeability rating of 0.0014 inches per hour. Proper installation shall be certified ] by a liner manufacturer [ or . ] a professional engineer [ , an employee of the Soil and Conservation Service of the United States Department of Agriculture with appropriate engineering approval authority, an employee of a soil and water conservation district with appropriate engineering approval authority, or other qualified individual ] and shall be maintained on site.

[ 4. At earthen waste storage facilities constructed below the seasonal high water table, the top surface of the waste must be maintained at a level of at least two feet above the water table. ]

[ 7. 5. ] All waste storage facilities shall maintain [ a minimum freeboard of two feet at all times. Should the two-foot freeboard not be maintained, the permittee shall immediately notify the department describing the problem and the corrective measures

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taken. Within five days of the notification, the permittee shall submit a written statement of explanation and corrective measures, one foot of freeboard at all times, up to and including a 25-year, 24-hour storm. ]

[ 8. 6. The owner of a new animal feeding operation shall develop an Operations and Maintenance (O & M) Manual for the treatment works/pollutant management system permitted herein prior to operation of the system. The owner of an existing animal feeding operation shall develop the O & M Manual within 90 days of the date of coverage under this permit. The O & M Manual shall, at a minimum, contain the following information: All equipment needed for the proper operation of the permitted facilities shall be maintained in good working order. The manufacturer's operating and maintenance manuals shall be retained for references to allow for timely maintenance and prompt repair of equipment as appropriate. ]

[ a. Introduction;

b. Waste treatment processes including storage, transmission and distribution system of the land application system;

c. Specific operation and maintenance information of each process discussed in item b above;

d. Schedules of operation and maintenance;

e. Sampling and testing protocols; and

f. Recordkeeping.

The permittee shall operate the treatment works/pollutant management system in accordance with the O & M Manual which becomes an enforceable part of the permit. Any changes in the practices and procedures shall be documented and made a part of the O & M Manual. The revised manual shall become an enforceable part of the permit. The O & M Manual shall be maintained on site and made available to department personnel upon request. ]

[ 9. 7. ] The "Nutrient Management Plan" (NMP) approved by the Department of Conservation and Recreation (DCR) shall be implemented, maintained on site and made available to department personnel upon request. The NMP shall be enforceable through this permit. The NMP shall contain at a minimum the following information:

a. Site map indicating the location of the waste storage facilities and the fields where waste will be applied;

b. Site evaluation [ and ] assessment of soil types

and potential productivities;

c. Nutrient management sampling including soil and waste monitoring;

d. Storage and land area requirements;

e. Calculation of waste application rates; and

f. Waste application schedules.

[ 10. Animal waste/wastewater shall not be applied to soils which are saturated by previous precipitation events, or to ice or snow covered or frozen ground.

11. Wastewater shall not be applied by a spray irrigation system at rates that exceed 0.25 in/hr, one in/day and two in/week, unless alternate rates have been specified by the approved Nutrient Management Plan.

12. At no time shall animal waste/wastewater be surface applied by a spreader at a hydraulic loading rate greater than 14,000 gal/AC (0.5 inches depth) in a single application procedure unless alternate rates have been specified by the approved Nutrient Management Plan.

13. The application of animal waste together with any other source of Plant Available Nitrogen (PAN) shall not exceed the agronomic loading rate for the crops grown on each site in accordance with the approved Nutrient Management Plan. PAN calculations shall be made using the results from the most recent waste monitoring period or the facilities' long-term average waste monitoring results. ]

[ 14. 8. ] Buffer zones shall be maintained as follows:

[ a. Distance from improved roadways ... - 25 feet ]

[ b. a. ] Distance from occupied dwellings 200 feet  
[ (unless the occupant of the dwelling signs a waiver of the buffer zone) ]

[ e. b. ] Distance from water supply wells or springs ..... 100 feet

[ d. c. ] Distance from surface water courses  
(by surface application) ..... 50 feet  
(by subsurface injection) ..... 25 feet

[ e. Distance from property lines  
(by surface application) ..... 25 feet  
(subsurface injection) ..... - 25 feet ]

[ f. d. ] Distance from rock outcropping  
(except limestone) ..... 25 feet

[ g. e. ] Distance from limestone  
outcroppings ..... 50 feet

[ *h.* Distance from artificial agricultural drainage ditches whose primary purpose is to lower the seasonal high groundwater table and where slopes are less than or equal to 2%  
(surface applied) ..... 10 feet  
(subsurface applied) ..... 5 feet

Application under this reduced buffer zone requirement shall be reported in the yearly summary report. ]

[ *i. f.* ] Waste shall not be applied in such a manner that it would discharge to sinkholes that may exist in the area.

[ 15. 9. A yearly summary report shall be prepared for the previous calendar year and Records shall be maintained to demonstrate where and at what rate waste has been applied, that the application schedule has been followed, and what crops have been planted. These records shall be ] maintained on site [ for a period of two years after recorded application is made ] and [ shall be ] made available to department personnel upon request. [ The report shall include:

*a.* A summary of the monitoring data results including waste, soil, and groundwater analyses.

*b.* A summary on the total animal waste (volume and loadings) land applied, both on and off site, during the year.

*c.* The yearly waste balance showing inputs to and drawdown from the storage facilities.

*d.* A summary of the agronomic practices which occurred during the preceding growing season including (but not limited to) the timing and number of crop cuttings, an estimate of total crop yield (tons or bushels/acre) removed from the site, any lime and fertilizer additions made to the site (type and quantities).

*e.* A listing of the average number of animals on-site during the year.

*f.* A general statement of past system performance and the status of the permitted facilities with regard to complying with the Virginia Pollution Abatement General Permit requirements.

16. A Facilities Closure Plan shall be developed prior to termination of the pollutant management activities covered under this permit. The plan shall incorporate:

*a.* The volume, percent solids, nutrient content, and other waste characterization information appropriate to the nature of the waste materials.

*b.* A listing of all waste products at the facility along with a description of procedures for removal,

land application, or other proper disposal of the wastes.

*c.* Closure plans for all waste treatment, storage, and handling facilities. The Facilities Closure Plan shall be submitted to the department at least 90 days prior to implementation of the plan. ]

PART II.

[ MONITORING AND REPORTING. ]

A. Sampling and analysis methods.

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.

2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants (40 CFR Part 136 [ (1992) (1994) ] ).

3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.

4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Recording of results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;

2. The person(s) who performed the sampling or measurements;

3. The dates analyses were performed;

4. The person(s) who performed each analysis;

5. The analytical techniques or methods used;

6. The results of such analyses and measurements;

C. Records retention. All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation shall be retained on site for [ three two ] years from the date of the sample, measurement or report [ or until at least one year after coverage under this general permit terminates, whichever is later ] . This period of retention shall be extended automatically during the course of any

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unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the director.

D. Additional monitoring by permittee. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the project report. Such increased frequency shall also be reported.

[ E. ~~Water quality monitoring.~~

~~The director may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutant(s) on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the Virginia State Water Control Law or the board's regulations.~~

~~The permittee shall obtain and report such information if requested by the director. Such information shall be subject to inspection by authorized state representatives and shall be submitted with such frequency and in such detail as requested by the director. ]~~

[ F. E. ] Reporting requirements.

[ 1. The permittee shall submit to the department results of the monitoring required in Part 1 A with the registration statement during the reissuance process. ]

[ 2. 1. ] If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the department [ with the project summary report ] at least the following information:

- a. A description and cause of noncompliance;
- b. The period of noncompliance, including exact dates and times or the anticipated time when the noncompliance will cease; and
- c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The director may waive the written report requirement on a case-by-case basis if the oral report has been received

within 24 hours and no adverse impact on state waters has been reported.

[ 3. 2. ] The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part II F [ 2 1 ] a-c regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

If the department's regional office cannot be reached, the department maintains a 24-hour telephone service in Richmond (804-527-5200) to which the report required above is to be made.

[ G. F. ] Signatory requirements. Any registration statement or certification required by this permit shall be signed as follows:

[ 1. Registration statement. ]

[ a. 1. ] For a corporation, by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

[ b. 2. ] For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

[ e. 3. ] For a partnership or sole proprietorship, by a general partner or proprietor respectively.

[ 2. Certification. Any person signing a document under subdivision 1 or 2 of this subsection shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the

*person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."* ]

## PART III.

### [ MANAGEMENT REQUIREMENTS. ]

#### A. Change in management of pollutants.

1. All pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit a new registration statement 30 days prior to all expansions, production increases, or process modifications, that will result in the management of new or increased pollutants. The management of any pollutant at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.

2. The permittee shall promptly provide written notice of the following:

a. Any new introduction of pollutant(s), into treatment works or pollutant management activities which represents a significant increase in the management of pollutant(s) which may interfere with, pass through, or otherwise be incompatible with such works or activities, from an establishment or treatment works, if such establishment, treatment works has the potential to discharge pollutants to state waters; and

b. Any substantial change, whether permanent or temporary, in the volume or character of pollutants being introduced into such treatment works by an establishment, treatment works, or pollutant management activity that was introducing pollutants into such treatment works at the time of issuance of the permit.

Such notice shall include information on: (i) the characteristics and quantity of pollutants to be introduced into or from such treatment works or pollutant management activities; (ii) any anticipated impact of such change in the quantity and characteristics of the pollutants to be managed at a pollutant management activity; and (iii) any additional information that may be required by the director.

#### B. Treatment works operation and quality control.

1. Design and operation of facilities or treatment works and disposal of all wastes shall be in

accordance with the registration statement filed with the department. The permittee has the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:

a. At all times, all facilities and pollutant management activities shall be operated in a prudent and workmanlike manner.

b. The permittee shall provide an adequate operating staff to carry out the operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.

c. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.

d. Collected solids shall be stored and utilized as specified in the approved Nutrient Management Plan in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.

C. Adverse impact. The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.

#### D. Duty to halt, reduce activity or to mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural stability. The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such

# Final Regulations

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structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Compliance with state law. Compliance with this permit during its term constitutes compliance with the State Water Control Law.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation.

G. Property rights. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

H. Severability. The provisions of this permit are severable.

I. Duty to reregister. If the permittee wishes to continue to operate under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 30 days prior to the expiration date of this permit.

J. Right of entry. The permittee shall allow, or secure necessary authority to allow, authorized state representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;
2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;
4. To sample at reasonable times any waste stream, process stream, raw material or by-product; and
5. To inspect at reasonable times any collection, treatment, or pollutant management activities required under this permit.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained herein shall make an inspection time unreasonable during an emergency.

K. Transferability of permits. This permit may be

transferred to a new owner by a permittee if:

1. The current permittee notifies the department 30 days in advance of the proposed transfer of the title to the facility or property;
2. The notice to the department includes a written agreement between the existing and proposed permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and
3. The department does not within the 30-day time period notify the existing permittee and the proposed permittee of the board's intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

[ ~~L.~~ Public access to information.

All information pertaining to the permit process or in reference to any pollutant management activities shall be available to the public. ]

[ ~~M.~~ L. ] Permit modification. The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;
2. When the level of management of a pollutant, not limited in the permit, exceeds applicable Water Quality Standards or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

[ ~~N.~~ M. ] Permit termination. After public notice and opportunity for a hearing, the general permit may be terminated for cause.

[ ~~O.~~ N. ] When an individual permit may be required. The director may require any permittee authorized to manage pollutants under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The pollutant management activities violate the terms or conditions of this permit;
2. When additions or alterations have been made to the affected facility which require the application of permit conditions that differ from those of the existing permit or are absent from it; and
3. When new information becomes available about the operation or pollutant management activities covered

*by this permit which were not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance.*

*This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.*

*[ ~~P. O.~~ ] When an individual permit may be requested. Any permittee operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to a permittee the applicability of this general permit to the individual permittee is automatically terminated on the effective date of the individual permit.*

*[ ~~Q. P.~~ ] Civil and criminal liability. Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.*

*[ ~~R. Q.~~ ] Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.*

*[ ~~S. R.~~ ] Unauthorized discharge of pollutants. Except in compliance with this permit, it shall be unlawful for any permittee to:*

- 1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or*
- 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.*

VA.R. Doc. No. R95-24; Filed September 28, 1994, 10:25 a.m.



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# STATE LOTTERY DEPARTMENT

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## DIRECTOR'S ORDER NUMBER THIRTY-FOUR (94)

### VIRGINIA'S THIRTY-SEVENTH INSTANT GAME LOTTERY, "MOVIES, MUSIC & MONEY," END OF GAME.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's thirty-seventh instant game lottery, "Movies, Music & Money," will officially end at midnight on Saturday, September 24, 1994. The last day for lottery retailers to return for credit unsold tickets from "Movies, Music & Money" will be Friday, October 21, 1994. The last day to redeem winning tickets for "Movies, Music & Money" will be Thursday, March 23, 1995, 180 days from the declared official end of the game. Claims for winning tickets from "Movies, Music & Money" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of March 23, 1995, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle  
Director  
Date: September 1, 1994

VA.R. Doc. No. R95-22; Filed September 23, 1994, 2:08 p.m.

## DIRECTOR'S ORDER NUMBER THIRTY-FIVE (94)

### STATE FAIR DAILY VIRGINIA LOTTERY RAFFLE TICKET DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the State Fair Daily Virginia Lottery Raffle Ticket Drawing Rules for the daily raffle drawings, the lottery promotional event which will be conducted during the 1994 Virginia State Fair. The event will take place at the fairgrounds in Richmond from September 22 - October 2, 1994. These rules amplify and conform to the duly adopted State Lottery Department regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery

Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until October 3, 1994, unless otherwise extended by the Director.

/s/ Richard G. Wilkinson  
Interim Director  
Date: September 20, 1994

VA.R. Doc. No. R95-23; Filed September 23, 1994, 2:08 p.m.

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER THIRTY (94)

### CREATING THE GOVERNOR'S COMMISSION ON CONVERSION OF STATE-OWNED PROPERTY

There exists a demonstrable need for construction of additional correctional facilities in order to meet the public safety requirements of the Commonwealth during the next decade and beyond. The Privatization Subcommittee of the Governor's Commission on Government Reform (the Blue Ribbon Strike Force) has identified the sale of surplus and under-utilized real property as a significant potential source of capital to fund prison construction and other needs in the years ahead.

The Commonwealth owns approximately 730,000 acres of real property. This is equivalent in size to the combined counties of Loudoun, Prince William and Stafford. When last comprehensively surveyed by the Department of General Services in 1984, the Commonwealth's real property assets had an assessed value of approximately \$4.5 billion.

Of this amount, only 1675 acres have been declared by state agencies to be "surplus" property. No comprehensive effort has been undertaken to determine whether other real property assets are under-utilized, duplicative, unduly costly to maintain, or otherwise could be subjected to a higher and better use. Such an effort is likely to identify properties that the Commonwealth could beneficially sell to generate funds for prison construction.

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Conversion of State-Owned Property.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to advise the Governor on the current use, importance, value, and recommended disposition of real property assets held by the agencies and institutions of the executive branch. The Commission shall have the following specific responsibilities:

1. To supervise a survey of all executive branch agencies and institutions in conjunction with the Department of General Services under the authority of Section 2.1-505 of the Code of Virginia. This survey shall provide for the identification and evaluation of all real property assets held by agencies and institutions of the executive branch and shall be completed by November 1, 1994, or such later time as the Commission may determine based on exigent

circumstances. Results of this survey shall be communicated to the Governor by January 1, 1995, or at such other time as the Governor may determine.

2. To evaluate the real property assets held by executive branch agencies and institutions in a manner that takes into account, but is uninhibited by, the interests of particular agencies and institutions.

3. To examine the current use and utility of such assets as they relate to the mission of the holding agency or institution, and to determine the viability of alternative means of achieving such mission in the absence of such assets.

4. To determine the market value and potential of real property assets that should be considered for sale or other disposition, and to recommend to the Governor assets that should be sold, used for other purposes, or otherwise disposed.

5. To recommend to the Governor ways that state real property assets could be managed for a higher and better use.

The Commission shall evaluate the real property assets of every agency and institution of the executive branch of state government.

The Commission shall be composed of such members, not to exceed fifteen in number, as the Governor shall appoint. All members shall be appointed by and serve at the pleasure of the Governor. The Governor shall designate a Chair, or one or more Co-Chairs, of the Commission, who shall vote as members.

Such staff support as is necessary for the conduct of the Commission's work during the term of its existence shall be furnished by the Department of General Services, the Offices of the Governor's Secretaries, the Department of Planning and Budget, and such other executive agencies with closely and definitely related purposes as the Governor may designate. An estimated 1,500 hours of staff support will be required to support the Commission. Such funding as is necessary during the Commission's existence shall be provided from sources authorized by Section 2.1-51.37 of the Code of Virginia, which have been appropriated for the same purposes as the Commission. Direct expenditures for the Commission's work are estimated to be \$35,000.

The Commission shall complete its examinations of these matters and report to the Governor no later than January 1, 1995, and shall make such additional reports as the Governor may direct.

All agencies and institutions of the executive branch shall cooperate with the Commission and provide in a timely manner such information as the Commission may request. The Secretary of Administration periodically shall report to the Governor regarding the timeliness and

# Governor

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completeness of responses by executive agencies and institutions to Commission requests.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until September 1, 1995, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 16th day of September, 1994.

/s/ George Allen  
Governor

V.A.R. Doc. No. R95-21; Filed September 21, 1994, 3:22 p.m.

## **GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS**

(Required by § 9-6.12:9.1 of the Code of Virginia)

### **DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)**

Title of Regulation: **VR 615-08-1. Virginia Energy Assistance Program.**

Governor's Comment:

I have reviewed the regulation and the public's comments. The Secretary and the agency have assured me that this regulation is a reasonable and necessary means of implementing this program.

/s/ George Allen  
Governor

Date: September 27, 1994

V.A.R. Doc. No. R95-25; Filed September 27, 1994, 2:50 p.m.

# SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in The Virginia Register of Regulations on July 11, 1994 (10:21 V.A.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in The Virginia Register of Regulations. This section of The Virginia Register has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

## DEPARTMENT FOR THE AGING

VR 110-01-01. Public Participation Guidelines.

VR 110-01-02. Grants to Area Agencies on Aging.

Written or oral comments may be submitted through November 17, 1994, to Bill Fascitelli, Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2852, toll-free in Virginia 1-800-552-3402, FAX (804) 371-8381.

**Contact:** Bill Fascitelli, Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2852.

## DEPARTMENT OF CORRECTIONS

Review of the following regulations shall be completed by February 15, 1995:

VR 230-30-003. Virginia Probation and Parole Standards.

VR 230-20-001.1. Standards for State Correctional Facilities.

VR 230-01-003.1. Rules and Regulations Governing Certification Process.

VR 230-30-004.1. Standards for Community Residential Programs.

VR 230-01-001. Public Participation Guidelines.

VR 230-30-005.1. Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities.

Public comments may be submitted through November 18, 1994, to Amy Miller, Department of Corrections, P. O. Box 26963, Richmond, VA 23261.

**Contact:** Amy Miller, Regulatory Coordinator, Department of Corrections, P. O. Box 26963, Richmond, VA 23261, telephone (804) 674-3119.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES

VR 240-00-1. Public Participation Guidelines.

VR 240-01-11. Rules Relating to Compulsory Minimum Training Standards for Noncustodial Officers of the Department of Corrections.

VR 240-01-14. Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of State Department of Corrections, Division of Adult Institutions.

VR 240-01-15. Rules Relating to Compulsory Minimum Training Standards for Radar Operators.

VR 240-02-2. Regulations Governing the Privacy and Security of Criminal History Record Information Checks and Firearm Purchase.

VR 240-03-1. Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel.

VR 240-03-2. Rules and Regulations Relating to Private Security Services Businesses.

Public comments may be submitted until March 1, 1995, to Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 East Broad Street, 10th Floor, Richmond, VA 23219, telephone (804) 786-8730.

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VR 240-01-1. Rules Relating to Compulsory Minimum Training Standards for Law Enforcement Officers.

VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers, and Officers of the Department of Corrections, Division of Adult Institutions.

VR 240-01-3. Rules Relating to Compulsory Minimum Training Standards for Undercover Investigative Officers.

VR 240-01-4. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers.

VR 240-01-5. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.

VR 240-01-12. Rules Relating to the Certification of Criminal Justice Instructors.

VR 240-01-13. Rules Relating to Regional Criminal Justice Academies.

VR 240-02-1. Rules Relating to Criminal History Record

# Schedules for Comprehensive Review of Regulations

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Information Use and Security.

VR 240-04-1. Rules Relating to the McGruff House Program.

VR 240-04-2. Rules Relating to Forfeited Drug Asset Sharing Program.

VR 240-04-3. Rules Relating to the Court-Appointed Special Advocate Program.

VR 240-04-4. Regulations Relating to Crime Prevention Specialists.

Public comments may be submitted until December 1, 1995, to Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 East Broad Street, 10th Floor, Richmond, VA 23219, telephone (804) 786-8730.

**Contact:** Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 East Broad Street, 10th Floor, Richmond, VA 23219, telephone (804) 786-8730.

## DEPARTMENT FOR THE DEAF AND HARD OF HEARING

Review of the following regulations shall be completed by December 31, 1994:

VR 245-01-01:1. Public Participation Guidelines.

VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures of the Distribution of Technological Assistive Devices.

VR 245-03-01. Regulations Governing Interpreter Services for the Deaf and Hard of Hearing.

Public comments on the above regulations may be submitted through November 30, 1994.

Following this comprehensive review, VDDHH shall complete a review of its regulations every 18 months.

**Contact:** Leslie G. Hutcheson, Special Projects Manager, Department for the Deaf and Hard of Hearing, 1100 Bank Street, 12th Floor, Richmond, VA 23219-3640, telephone (804) 371-7885 (V/TTY).

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

VR 370-01-000:1. Public Participation in the Formation and Development of Regulations.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

VR 370-01-002. Regulations to Measure Efficiency and Productivity of Health Care Institutions.

VR 370-01-003. Regulations of the Virginia Health Services Cost Review Council Patient Level Data Base System.

Written or oral comments may be submitted through November 16, 1994, to Dr. Ann Y. McGee, Executive Director, 805 East Broad Street, 6th Floor, Richmond, VA 23219.

**Contact:** Dr. Ann Y. McGee, Executive Director, Virginia Health Services Cost Review Council, 805 East Broad Street, 6th Floor, Richmond, VA 23219.

## COMMISSION ON LOCAL GOVERNMENT

Pursuant to Executive Order 15(94), the Commission on Local Government is initiating a comprehensive review of the following regulations:

VR 445-01-01. Public Participation Process.

VR 445-01-02. Organization and Rules of Procedure.

These regulations govern the Commission's procedures and its analysis of annexation, consolidation, and related interlocal issues.

Oral or written comments may be submitted from local government officials and all other interested parties through November 17, 1994, to M. H. Wilkinson, Executive Director or Ted McCormack, Assistant Director, Virginia Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219 (804) 786-6508.

**Contact:** M. H. Wilkinson, Executive Director or Ted McCormack, Assistant Director, Virginia Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

In conformance to Executive Order 15(94), the Department of Medical Assistance Services hereby notifies the public of its intention to review all of its existing regulations according to the following schedule:

1. The agency intends to review all of its regulations having '01' as the middle two digits of the VR number by July 1, 1995. Those regulations are specified in the following list. The agency hereby requests public comment on these regulations to be submitted no later than December 1, 1994.

2. The agency intends to review all of its regulations having '02', '03', '04', '05', and '10' as the middle two digits of the VR number by July 1, 1996. This list of regulations will be published after July 1, 1995

## Schedules for Comprehensive Review of Regulations

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Further public comment on this later list will be requested at that time.

- VR 460-01-1. Single State Agency.
- VR 460-01-2. Designation and Authority.
- VR 460-01-3. State Plan Administration.
- VR 460-01-4. Waiver of Single State Agency Requirement.
- VR 460-01-5. Specification of Agency Responsibility for Eligibility Determination.
- VR 460-01-6. Plan Provisions Administered by Medicaid Agency.
- VR 460-01-7. Organization for Administration.
- VR 460-01-8. Statewide Operation.
- VR 460-01-9. State Medical Care Advisory Committee.
- VR 460-01-10. Coverage and Eligibility: Application.
- VR 460-01-11. Coverage and Eligibility: Eligibility Effective Date.
- VR 460-01-11.1. Coverage and Eligibility: Application Procedures.
- VR 460-01-12. Coverage and Conditions of Eligibility.
- VR 460-01-13. Residence.
- VR 460-01-14. Medicaid Eligibility for Blind Persons.
- VR 460-01-15. Medicaid Eligibility for Disabled Persons.
- VR 460-01-16. Financial Eligibility Categorically Needy.
- VR 460-01-18. Medicaid Furnished Out of State.
- VR 460-01-18.1. Requirements for Advance Directives.
- VR 460-01-19. Amount, Duration, and Scope of Services: Categorically Needy.
- VR 460-01-19.1. Amount, Duration, and Scope of Services: 60-day Pregnancy Services.
- VR 460-01-19.2. Amount, Duration, and Scope of Services: Home Health Services.
- VR 460-01-20. Amount, Duration, and Scope of Services: Medically Needy.
- VR 460-01-20.1. Covered Home Health and Respiratory Services.
- VR 460-01-20.2. Covered Emergency Services.
- VR 460-01-21. Medicare Cost Sharing for Qualified Medicare Beneficiaries and Limited Coverage for Certain Aliens.
- VR 460-01-21.1. Limited Coverage for Certain Aliens: Lawful Temporary Residents.
- VR 460-01-21.2. Limited Coverage for Certain Aliens: Unlawful Residents.
- VR 460-01-22. EPSDT Services.
- VR 460-01-23. Covered Home Health Services.
- VR 460-01-24. Assurance of Transportation.
- VR 460-01-25. Methods and Standards to Assure Quality of Services.
- VR 460-01-26. Family Planning Services.
- VR 460-01-27. Optometric Services.
- VR 460-01-28. Participation by Indian Health Service Facilities: Respiratory Care Services for Ventilator-Dependent Individuals.
- VR 460-01-29. Medicare - Medicaid Individuals: Premiums.
- VR 460-01-29.1. Medicare - Medicaid Individuals: QDWI/SLMB Persons.
- VR 460-01-29.2. Medicare - Medicaid Individuals: Part B Premiums.
- VR 460-01-29.3. Medicare - Medicaid Individuals: Deductibles/Coinsurance.
- VR 460-01-29.4. Medicare - Medicaid Individuals: Employer Group Health Plans.
- VR 460-01-30. Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases.
- VR 460-01-31. Special Requirements Applicable to Sterilization Procedures.
- VR 460-01-31.1. Families Receiving Extended Medicaid Benefits: First 6 Months.
- VR 460-01-31.2. Families Receiving Extended Medicaid Benefits: Services Listed.
- VR 460-01-31.3. Families Receiving Extended Medicaid Benefits: Employer Plan Prem..
- VR 460-01-31.4. Families Receiving Extended Medicaid Benefits: Premium Payment.
- VR 460-01-32. General Program Administration; Methods of Administration.

## Schedules for Comprehensive Review of Regulations

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- VR 460-01-33. Hearings for Applicants and Recipients.
- VR 460-01-34. Safeguarding Information on Applicants and Recipients.
- VR 460-01-35. Medicaid Quality Control.
- VR 460-01-36. Medicaid Agency Fraud Detection and Investigation Program.
- VR 460-01-37. Reports.
- VR 460-01-38. Maintenance of Records.
- VR 460-01-39. Availability of Agency Program Manuals.
- VR 460-01-40. Reporting Provider Payments to Internal Revenue Service.
- VR 460-01-41. Free Choice of Providers.
- VR 460-01-42. Relations with Standard Setting and Survey Agencies.
- VR 460-01-43. Department of Health as Agency Responsible for Licensing Health Institutions.
- VR 460-01-44. Consultation to Medical Facilities.
- VR 460-01-45. Required Provider Agreement: General Requirements.
- VR 460-01-45.1. Required Provider Agreement: Provider Advance Directive Requirements.
- VR 460-01-45.2. Required Provider Agreement: Provider Written Information.
- VR 460-01-46. Utilization/Quality Control.
- VR 460-01-47. Control of Utilization of Inpatient Hospital Services.
- VR 460-01-48. Control of Utilization of Inpatient Services in Mental Hospitals.
- VR 460-01-49. Control of Utilization of Skilled Nursing Facility Services.
- VR 460-01-50. Control of Utilization of Intermediate Care Facility Services.
- VR 460-01-50.1. Control of Utilization of Services Furnished by Health Maintenance Organizations.
- VR 460-01-51. Inspections of Care.
- VR 460-01-52. Relations with State Health and Vocational Rehabilitation Agencies and Title V Grantees.
- VR 460-01-53. Liens and Recoveries: Property Liens.
- VR 460-01-53.1. Liens and Recoveries: Recoveries.
- VR 460-01-54. Cost Sharing and Similar Charges: Maximum Allowable Charges.
- VR 460-01-55. Cost Sharing and Similar Charges: Services to Pregnant Women.
- VR 460-01-56. Cost Sharing and Similar Charges: CN 1 Charge per Service.
- VR 460-01-56.1. Cost Sharing and Similar Charges: Categorically Needy and QMB.
- VR 460-01-56.2. Cost Sharing and Similar Charges: Monthly Premium.
- VR 460-01-56.3. Cost Sharing and Similar Charges: Medically Needy Individuals.
- VR 460-01-56.4. Cost Sharing and Similar Charges: Services to Pregnant Women.
- VR 460-01-56.5. Cost Sharing and Similar Charges: MN 1 Charge per Service.
- VR 460-01-56.6. Cost Sharing and Similar Charges: Charges on Services/MN.
- VR 460-01-57. Payment for Services for Inpatient Hospital Services.
- VR 460-01-58. Payment for Services: Federally Qualified Health Centers.
- VR 460-01-59. Payments Made to Reserve Bed During Recipient's Temporary Absence from Inpatient Facility.
- VR 460-01-60. Payments for Skilled Nursing and Intermediate Care Facility Services.
- VR 460-01-61. Timely Payment of Claims.
- VR 460-01-62. Participation Limited to Providers Who Accept State Payment as Payment in Full.
- VR 460-01-63. Audit of Records.
- VR 460-01-64. Documentation and Availability of Payment Rates.
- VR 460-01-65. Payments Sufficient to Enlist Providers.
- VR 460-01-66. Public Notice of Changes in Statewide Methods or Standards for Rate Setting; Medicare Cost Sharing for Qualified Medicare Beneficiaries; Payments for Emergency Medical Assistance Furnished to an Alien.
- VR 460-01-67. Direct Payments to Certain Recipients for Physicians' or Dentists' Services.

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- VR 460-01-68. Prohibition Against Reassignment of Provider Claims.
- VR 460-01-69. Third Party Liability: Required Data Exchanges.
- VR 460-01-69.1. Third Party Liability: Providers Bill Liable Third Parties.
- VR 460-01-70. Third Party Liability: Written Cooperative Agreements.
- VR 460-01-71. Use of Contracts.
- VR 460-01-72. Standards for Payments for Skilled Nursing Facility and Intermediate Care Facility Services.
- VR 460-01-73. Program for Licensing Administrators of Nursing Homes.
- VR 460-01-74. Drug Utilization Review Program: Outpatient Drug Claims.
- VR 460-01-74.1. Drug Utilization Review Program: Retrospective Nursing Home Review.
- VR 460-01-74.2. Drug Utilization Review Program: Monitoring Standards.
- VR 460-01-74.3. Drug Utilization Review: Interventions.
- VR 460-01-75. Disclosure of Survey Information and Provider or Contractor Evaluation.
- VR 460-01-76. Appeals Process.
- VR 460-01-77. Conflict of Interest Provisions.
- VR 460-01-78. Exclusion of Providers and Suspension of Practitioners and Other Individuals: State Law Has Broader Sanctions.
- VR 460-01-78.1. Exclusion of Providers and Suspension of Practitioners and Other Individuals: Medicare/Medicaid Exclusion.
- VR 460-01-78.2. Exclusion of Providers and Suspension of Practitioners and Other Individuals: HCFA Notification upon Provider Exclusion.
- VR 460-01-79. Disclosure of Information by Providers and Fiscal Agents; Income and Eligibility Verification System.
- VR 460-01-79.1. Medical Eligibility Cards for Homeless Individuals.
- VR 460-01-79.2. Systematic Alien Verification for Entitlements.
- VR 460-01-79.3. Program for Nurse Aide Training and Nurse Aide Registry: Requirements.
- VR 460-01-79.4. Program for Nurse Aide Training and Nurse Aide Registry: (continued).
- VR 460-01-79.5. Program for Nurse Aide Training and Nurse Aide Registry: Inter-Agency.
- VR 460-01-79.6. Medicaid Nursing Facility Remedies.
- VR 460-01-79.7. Pharmacy Services Rebate Agreement Terms.
- VR 460-01-79.8. Required Coordination Between the Medicaid and WIC Programs.
- VR 460-01-79.14. Nurse Aide Training and Competency Evaluation for Nursing Facilities.
- VR 460-01-79.15. Nurse Aide Training and Competency Evaluation for Nursing Facilities.
- VR 460-01-79.16. Nurse Aide Training and Competency Evaluation for Nursing Facilities.
- VR 460-01-79.17. Nurse Aide Training and Competency Evaluation for Nursing Facilities.
- VR 460-01-79.18. Nurse Aide Training and Competency Evaluation for Nursing Facilities.
- VR 460-01-79.19. Preadmission Screening and Annual Resident Review in Nursing Facilities.
- VR 460-01-79.20. Preadmission Screening and Annual Resident Review in Nursing Facilities.
- VR 460-01-80. Personnel Administration: Standards of Personnel Administration.
- VR 460-01-81. [Reserved].
- VR 460-01-82. Training Programs; Subprofessional and Volunteer Programs.
- VR 460-01-83. Financial Administration: Fiscal Policies and Accountability.
- VR 460-01-84. Cost Allocation.
- VR 460-01-85. State Financial Participation.
- VR 460-01-86. General Provisions: Plan Amendments.
- VR 460-01-87. Nondiscrimination.
- VR 460-01-88. Maintenance of AFDC Efforts.
- VR 460-01-89. State Governor's Review.

Public comments may be submitted until December 1, 1994, to Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad



# Schedules for Comprehensive Review of Regulations

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Street, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Richmond, VA 23219, telephone (804) 371-8850.

## DEPARTMENT OF MOTOR VEHICLES

VR 485-60-7501. Virginia Proportional Registration Plan Rules and Regulations.

VR 485-10-7701. Privacy Protection Act Rules and Regulations.

VR 485-50-7801. Virginia Driver Improvement Act Rules and Regulations.

VR 485-60-8301. Overload Permit Regulations.

VR 485-50-8401. Rules and Regulations on Accident Prevention Courses for Older Drivers.

VR 485-60-8401. Evidence Required to Permit Registration or Re-registration of Vehicles for Which Proof of Tax Payment of SCC Registration is Required.

VR 485-50-8502. Rules and Regulations for the Motorcycle Rider Safety Training Center Program.

VR 485-60-8701. Virginia Motor Vehicle Rental Tax Rules and Regulations.

VR 485-50-8901. Virginia Commercial Driver's License Regulations.

VR 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.

VR 485-10-9101. Public Participation Guidelines for Regulation Development and Promulgation.

VR 485-10-9201. Commercial Driver Training School Regulations.

VR 485-50-9302. Regulations Governing Requirements for Proof of Residency to Obtain a Virginia Driver's License or Photo Identification Card.

By way of this notice, DMV is soliciting public comments on these regulations. In particular, DMV is interested in receiving public input on how burdensome a regulation is, whether it performs an important government function in an efficient and economical way, and if it is clearly written and easily understood.

Persons interested in commenting on any or all of these regulations should do so in writing. Written comments should be sent to Marc Copeland, Department of Motor Vehicles, P. O. Box 24712, 2300 West Broad Street, Richmond, Virginia, 23269-0001.

The deadline for submitting written comments is November 16, 1994, at 5 p.m.

Requests for copies of any or all of these regulations can be made by contacting Marc Copeland at the address above, or by calling (804) 367-1875.

## DEPARTMENT OF SOCIAL SERVICES

VR 615-01-01. Aid to Dependent Children Program Earned Income Disregards.

VR 615-01-02. Lump Sum Ineligibility Period in the Aid to Dependent Children Program.

VR 615-01-03. Maximum Resource Limit in the Aid to Families with Dependent Children (AFDC) Program.

VR 615-01-08. Real Property Disposition Period in the Aid to Dependent Children (ADC) Program.

VR 615-01-09. Definition of a Home in the Aid to Dependent Children Program.

VR 615-01-10. Job Training Partnership Act Income Disregards in the Aid to Dependent Children Program.

VR 615-01-11. Disregard of Certain Income Received by Indian Tribes in Aid to Dependent Children.

VR 615-01-16. Treatment of Casual and Inconsequential Income in Aid to Dependent Children.

VR 615-01-19. Aid to Dependent Children - Allocation of Income.

VR 615-01-20. Lump Sum Payments in the Aid to Dependent Children (ADC) Program.

VR 615-01-21. Deeming of Stepparent Income in the Aid to Families with Dependent Children (AFDC) Program.

VR 615-01-22. Home Energy Assistance in the Aid to Dependent Children (ADC) Program.

VR 615-01-26. Aid to Dependent Children (ADC) Program - Deprivation Due to the Incapacity of a Parent.

VR 615-01-27. Work-Related Child Care Expense Disregard in the Aid to Dependent Children (ADC) Program.

VR 615-01-32. Aid to Dependent Children (ADC) Program - Deprivation Due to Continued Absence.

VR 615-01-38. Aid to Dependent Children - Earned Income Tax Credit (EITC) Disregard.

Written comments on the above regulations must be received no later than November 17, 1994, to be considered in the regulation review. The regulation(s)

# Schedules for Comprehensive Review of Regulations

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about which comments are being made should begin by identifying the regulation by VR number and regulation title.

Please mail comments to the AFDC Program Manager, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849. Comments may also be submitted by facsimile transmission (FAX number: (804) 692-1704).

The department contact for any questions about this notice is Carolyn Ellis, AFDC Program Specialist, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849. Phone: (804) 692-1730.

## VIRGINIA STUDENT ASSISTANCE AUTHORITIES

VR 275-00-1. Public Participation Guidelines.

Includes provisions which enable interested parties to participate in the agency's regulatory process.

VR 275-01-2. Limitation, Suspension and Termination of Eligibility Under the State Education Assistance Authority Guaranteed Student Loan Program.

Describes the grounds and procedures for limiting, suspending or terminating the participation of schools and lenders in the student loan programs.

VR 275-01-3. Regulations Governing the Eligibility and Operations of School Lenders Under the Virginia Student Loan Programs.

Describes the eligibility and operational requirements of schools which also serve as lenders.

VR 275-01-1. Regulations Governing Virginia Administration of the Federal Guaranteed Student Loan Programs under Title IV, Part B of the Higher Education Act.

Regulations clarify and supplement federal regulations pertaining to loan origination, disbursement, servicing, collection and default for SEAA guaranteed loans.

VR 275-02-1. Regulations Governing the Edvantage Loan Program.

The Edvantage program is a long-term student loan program to help families and students meet the education expenses of undergraduate, graduate and professional education. The SEAA administers and guarantees the loans, insuring lenders against losses arising from the death, bankruptcy, permanent and total disability or the default of the borrower(s).

As part of the regulatory review process, the public is invited to comment. Those interested should send written comments to Sherry Scott, Policy Analyst, Virginia Student

Assistance Authorities, 411 E. Franklin Street, Richmond, VA 23219. Questions may also be directed to Ms. Scott at 1-800-792-5626. The deadlines for written comments are as follows:

VR 275-00-1. November 16, 1994.

VR 275-01-2. December 1, 1994.

VR 275-01-3. January 2, 1995.

VR 275-01-1. March 15, 1995.

VR 275-02-1. April 15, 1995.

**Contact:** Sherry Scott, Policy Analyst, Virginia Student Assistance Authorities, 411 E. Franklin Street, Richmond, VA 23219, telephone 1-800-792-5626.

## DEPARTMENT OF TAXATION

Pursuant to Executive Order Number 15(94), review of the following regulations shall be completed by July 3, 1995:

VR 630-0-1. Guidelines for Public Participation in Regulation Development and Promulgation.

VR 630-1-3 – 630-1-1833. General Provisions Applicable to All Taxes Administered by the Department of Taxation.

VR 630-3-301 – 630-3-504. Corporation Income Tax.

VR 630-10-1 – 630-10-113. Retail Sales and Use Tax.

VR 630-12-1 – 630-12-45. Motor Vehicle Fuel Sales Tax.

VR 630-18-796.11:1 – 630-18-796.11:10. Egg Excise Tax.

VR 630-20-10 – 630-20-201.1. Litter Tax.

VR 630-21-700 – 630-21-718. Beer and Beverage Excise Tax.

VR 630-26-1700 – 630-26-1704. Soft Drink Excise Tax.

VR 630-27-640 – 630-27-644. Tire Tax.

VR 630-29-1 – 630-29-17. Set-Off Debt Collection.

Public comments on the above regulations may be submitted through December 19, 1994, to Tim Winks, Assistant Commissioner for Tax Policy, Department of Taxation, P. O. Box 1880, Richmond, VA 23282, telephone (804) 367-8010. Comments may be faxed to (804) 367-6020.

Review of the remaining regulations currently in force will be completed by July 1, 1996. A notice for comment on those regulations will be published during 1995.

**Contact:** Lana L. P. Murray, Executive Assistant for Tax Policy, Department of Taxation, P. O. Box 1880, Richmond,

# Schedules for Comprehensive Review of Regulations

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VA 23282, telephone (804) 367-8011.

## DEPARTMENT OF TRANSPORTATION

The following regulations are covered by Executive Order 15(94). The directive requires that agencies publish a listing of affected regulations in the Virginia Register, and public comment be solicited prior to a formal assessment of each regulation. Titles, subjects, statutory authority, and contact persons are given for each regulation. The date the assessment is due to be completed is included, as well as a deadline date for submitting public comment.

VR 385-01-03. Rules and Regulations Governing Relocation Assistance.

Subject: Establishes policies and procedures under which VDOT will provide relocation services and payment to property owners displaced by highway improvement projects.

Statutory Authority: § 33.1-12(5) of the Code of Virginia, Federal Public Law 91-646.

**Contact:** Mr. S. A. Waymack, Virginia Department of Transportation, Right of Way Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 9/30/95

Public Comment Accepted Until: 8/30/95

\* \* \*

VR 385-01-04. Rules and Regulations for the Administration of Waysides and Rest Areas.

Subject: Establishes permitted and prohibited activities at waysides and rest areas adjacent to highways.

Statutory Authority: § 33.1-218 of the Code of Virginia.

**Contact:** Mr. A. V. Bailey, II, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 10/1/95

Public Comment Accepted Until: 8/30/95

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VR 385-01-05. Hazardous Materials Transportation Rules and Regulations.

Subject: Establishes rules and regulations governing the transportation of hazardous materials through tunnels and across bridges across the Commonwealth.

Statutory Authority: § 33.1-49 of the Code of Virginia.

**Contact:** Mr. A. V. Bailey, II, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad St., Richmond, Va. 33219

Date Assessment is Due: 3/1/95

Public Comment Accepted Until: 1/31/95

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VR 385-01-06. Minimum Standards of Entrances to State Highways.

Subject: Establishes engineering requirements, regulations, and procedures governing use of highway rights-of-way in providing access to commercial, industrial, or private properties abutting the Commonwealth's highways.

Statutory Authority: §§ 33.1-12(3), 33.1-197 and 33.1-198 of the Code of Virginia.

**Contact:** Mr. J. L. Butner, Virginia Department of Transportation, Traffic Engineering Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 12/31/94

Public Comment Accepted Until: 11/30/94

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VR 385-01-08. Subdivision Street Requirements.

Subject: Establishes criteria under which VDOT will accept subdivision streets into the secondary system.

Statutory Authority: §§ 33.1-12, 33.1-69 and 33.1-229 of the Code of Virginia.

**Contact:** Mr. J. S. Givens, Virginia Department of Transportation, Secondary Roads Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 7/1/95

Public Comment Accepted Until: 5/30/95

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VR 385-01-09. Public Participation Guidelines for Regulations Promulgated under the Administrative Process Act (APA).

Subject: Establishes policies and procedures VDOT follows in promulgating regulations subject to the APA.

Statutory Authority: §§ 33.1-12 and 9-6.14:7.1 of the Code of Virginia.

**Contact:** Mr. L. D. Jones, Virginia Department of Transportation, Management Services Division, 1401 E.

# Schedules for Comprehensive Review of Regulations

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Broad St., Richmond, Va. 23219

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Date Assessment is Due: 11/30/94

Public Comment Accepted Until: 11/23/94

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VR 385-01-10. General Rules and Regulations of the State Highway and Transportation Commission of Virginia.

Subject: Establishes conditions under which land use permits may be needed and granted for any work on State right of way.

Statutory Authority: § 33.1-12(3) of the Code of Virginia.

**Contact:** Mr. A. V. Bailey, II, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 10/1/95

Public Comment Accepted Until: 8/30/95

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VR 385-01-11. Rules and Regulations for the Administration of Parking Lots and Environs.

Subject: Establishes permitted and prohibited activities at parking lots and environs adjacent to highways.

Statutory Authority: § 46.2-1223 of the Code of Virginia.

**Contact:** Mr. A. V. Bailey, II, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 10/1/95

Public Comment Accepted Until: 8/30/95

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VR 385-01-12. Hauling Permit Manual.

Subject: Establishes regulations and procedures to be followed in issuing hauling permits for transportation of cargo on Virginia highways.

Statutory Authority: §§ 33.1-12(3) and 46.1-343 of the Code of Virginia.

**Contact:** Mr. A. V. Bailey, II, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 7/1/95

Public Comment Accepted Until: 5/30/95

VR 385-01-13. Rules and Regulations Controlling Outdoor Advertising and Directional Signs and Other Signs and Notices.

Subject: Establishes criteria to conform to federal and state laws concerning the size, spacing and types of advertising, directional and other signs allowed adjacent to highways.

Statutory Authority: §§ 33.1-370 and 33.1-371 of the Code of Virginia; Title 23, § 131 et seq., United States Code.

**Contact:** Mr. E. T. Robb, Virginia Department of Transportation, Environmental Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 7/1/95

Public Comment Accepted Until: 5/30/95

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VR 385-01-16. Land Use Permit Manual.

Subject: Establishes the policies, procedures, and fee structure governing the issuance of land use permits for utility-related and other types of work on State right of way.

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

**Contact:** Mr. A. V. Bailey, II, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 7/1/95

Public Comment Accepted Until: 5/30/95

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VR 385-01-17. Rules and Regulations to Comply with the Set-off Debt Collection Act.

Subject: Establishes notification, hearing, and decision-making procedures to comply with the Set-off Debt Collection Act.

Statutory Authority: §§ 33.1-12(7) and 58.1-526 of the Code of Virginia.

**Contact:** Mr. G. A. Whirley, Sr., Virginia Department of Transportation, Fiscal Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 3/1/95

Public Comment Accepted Until: 2/1/95

# Schedules for Comprehensive Review of Regulations

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VR 385-01-22. Vegetation Control Policy.

Subject: Establishes policies and procedures to be followed in granting permits allowing the cutting of vegetation located on State right of way to improve visibility of outdoor advertising.

Statutory Authority: §§ 33.1-12(3),(7) and 33.1-351(a) of the Code of Virginia.

**Contact:** Mr. E. T. Robb, Virginia Department of Transportation, Environmental Division, 1401 E. Broad St., Richmond, Va. 23219

Date Assessment is Due: 7/1/96

Public Comment Accepted Until: 5/30/96

## DEPARTMENT OF THE TREASURY AND TREASURY BOARD

VR 640-01-1. Public Participation Guidelines.

VR 640-04-1. Regulations Governing Escheats.

VR 640-02. Virginia Security for Public Deposits Act Regulations.

Public comments will be received from October 17, 1994, to December 16, 1994, and should be forwarded to Susan F. Dewey, P. O. Box 1879, Richmond, VA 23215, telephone (804) 225-2391.

**Contact:** Susan F. Dewey, Department of the Treasury, P. O. Box 1879, Richmond, VA 23215, telephone (804) 225-2391.

# GENERAL NOTICES/ERRATA

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

## GENERAL NOTICES

### DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ALCOHOLIC BEVERAGE CONTROL BOARD)

#### Notice to the Public

Pursuant to the Virginia Department of Alcoholic Beverage Control's "Public Participation Guidelines for Adoption or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Department of Alcoholic Beverage Control), the board will conduct a public meeting on Thursday, June 1, 1995, at 10 a.m. in its Hearing Room, First Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of board regulations. Any group or individual may file with the board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. General description of proposal, with recommendations for adoption, amendment or repeal of specific regulation(s);
4. Why is change needed? What problem is it meant to address?
5. What is the anticipated effect of not making the change?
6. Estimated costs or savings to regulated entities, the public, or others incurred by this change as compared to current regulations;
7. Who is affected by recommended change? How affected?
8. Draft language; and
9. Supporting documents.

The board may also consider any other request for regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the board no later than Friday, November 18, 1994.

The board will also be appointing an ad hoc advisory panel consisting of persons on its general mailing list who will be affected by or interested in the adoption, amendment or repeal of board regulations. This panel will consider regulation proposals, make recommendations, assist in development of draft language and provide such advice as the board may request. Anyone interested in serving on such panel should notify the contact person

identified below by Friday, November 18, 1994, requesting that their name be placed on the general mailing list.

Petitions for regulatory change and requests to be appointed to the ad hoc advisory panel should be sent to Sara M. Gilliam, Assistant Secretary to the Board, 2901 Hermitage Road, Richmond, Virginia 23220, or may be faxed to (804) 367-1802 if the original paperwork is also mailed.

Applicable laws or regulations (authority to adopt regulations): §§ 4.1-103 12, 4.1-111, 4.1-112, 4.1-113 and 9-6.14:1 et seq. of the Code of Virginia; VR 125-01-1 § 5.1, Board Regulations.

Entities affected: All licensees (manufacturers, wholesalers, importers, retailers) and the general public.

FOR FURTHER INFORMATION CONTACT: Sara M. Gilliam, Assistant Secretary, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, Virginia 23261, telephone (804) 367-0617.

### DEPARTMENT OF LABOR AND INDUSTRY

#### † Notice to the Public

The Virginia State Plan for the enforcement of Virginia Occupational Safety and Health (VOSH) laws commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

#### U. S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1926, and 1928

(Docket No. H-122)

INDOOR AIR QUALITY (including Environmental Tobacco Smoke in the Workplace)

AGENCY: Occupational Safety and Health Administration (OSHA)

# General Notices/Errata

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**ACTION:** Notice of proposed federal rulemaking; change of hearing location; extension of hearing dates; and clarification of hearing issues.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is changing the location of the hearing (the starting date of the hearing remains unchanged) and extending the length of the hearing to accommodate the large number of parties who wish to participate. In order to help hearing participants focus their testimony on relevant issues, OSHA is also clarifying certain aspects of its proposal.

**TEXT:** Full text of the proposed rulemaking can be found in the Federal Register, Volume 59, No. 179, pg. 47570 (September 16, 1994).

**DATES:** The hearing will take place from September 20, 1994, through October 14, 1994, as scheduled, but will also reconvene for additional sessions from October 24 through November 22, 1994, and November 29 through December 5, 1994. The starting time is 10 a.m. on the first day and 9:30 a.m. on the subsequent days.

**ADDRESSES:** The first two days of the hearing, Tuesday, September 20 and Wednesday, September 21, will be held at the Andrew W. Mellon Auditorium between 12th and 13th Streets on Constitution Avenue, N.W., Washington, D.C. The third and fourth days of the hearing, Thursday, September 22, and Friday, September 23, will be held at the Department of Interior Auditorium, 1849 "C" Street, N.W., Washington, D.C. The location of the hearings on subsequent days will be announced, and may be obtained by calling the OSHA Office of Information and Consumer Affairs at (202) 219-8618.

**FOR FURTHER INFORMATION CONTACT:** Tom Hall, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 219-8618.

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## Notice to the Public

The Virginia State Plan for the enforcement of Virginia Occupational Safety and Health (VOSH) laws commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U. S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1917, and 1918

(Docket No. S-025)

## LONGSHORING AND MARINE TERMINALS

**AGENCY:** Occupational Safety and Health Administration (OSHA)

**ACTION:** Proposed Rule; Notice of Informal Public Hearings.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) proposed on June 2, 1994 (59 FR 28594), to revise its Safety and Health Regulations for Longshoring and, to a far lesser extent, to amend its Safety and Health Regulations for Marine Terminals. The proposed rule covers cargo handling and related activities conducted aboard vessels and at Marine Terminals. The proposed amendments to the Marine Terminals standard are intended primarily to provide regulatory consistency with the proposed Longshoring ship-board rules.

The June 2, 1994, Federal Register notice and subsequent correction notice on June 13, 1994 (59 FR 30389), announced the cities and dates for three informal rulemaking hearings that will be held on all issues raised by the proposal. The dates of these hearings have been changed. This notice sets the new dates and specific locations of the informal public hearings to be held as part of the rulemaking process. In addition, it extends the original date for the submission of Notices of Intention to Appear by three weeks and reduces the time frame for the submission of documentary evidence and the text of lengthy testimony from 21 days to 14 days prior to the date of the hearing where the evidence will be presented.

**TEXT:** Full text of the proposed rule can be found in the Federal Register, Volume 59, No. 160, pg. 42785 (August 19, 1994).

The hearings will begin at 9:30 a.m. and be held in the following cities, beginning on the following dates:

Seattle, Washington on October 19, 20 and 21, 1994.

New Orleans, Louisiana on November 15, 16 and 17, 1994.

Parties who request more than 10 minutes for their presentation at the informal public hearing and parties who will submit documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence prior to the date of the hearing to be attended as follows:

New Orleans, Louisiana: postmarked by November 1, 1994.

The Seattle hearings will be held at the HOLIDAY INN CROWNE PLAZA, 1113 6th Avenue, Seattle, Washington.

The telephone number is (206) 464-1980.

The New Orleans hearings will be held at THE INN ON BOURBON, 541 Bourbon Street, New Orleans, Louisiana. The telephone number is (504) 524-7611.

Written comments should be submitted in quadruplicate to the Docket Office, Docket No. S-025, Room N-2625, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210. Telephone: (202) 219-7894. Comments of 10 pages or less may be faxed to the Docket Office, if followed by a hard copy. The OSHA Docket Office fax number is (202) 219-5046.

An additional hard copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219 or faxed, if 10 pages or less, to (804) 786-8418.

Notices of intention to appear, testimony and documentary evidence to be submitted at the hearing are to be sent to Mr. Thomas Hall, OSHA Division of Consumer Affairs, Docket No. S-025, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, DC 20210, telephone (202) 219-8615.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 219-8148.

## COMMISSION ON LOCAL GOVERNMENT

### † Notice to the Public

Pursuant to the provisions of §§ 2.1-7.1 and 15.1-945.3(6) of the Code of Virginia and to Paragraph 7 of Executive Memorandum 5-94, notice is hereby given that the following modifications of the schedule of local mandate assessments have been approved by the Governor and Secretary of Administration, effective August 20, 1994:

The Virginia Alcohol Safety Action Program mandate has been reassigned to the Commission on the Virginia Alcohol Safety Action Program, which is not an executive branch agency. Therefore, this mandate is no longer subject to review.

The completion dates for assessment of the three mandates administered by the Compensation Board have been changed to January 31, 1995.

The original schedule for the assessments of state and federal mandates on local governments was established by the Commission on Local Government and approved by Governor Allen. In conducting assessments, agencies will follow the process established by Executive Memorandum 5-94, which became effective April 22, 1994. For further

information call Adele MacLean, Policy Analyst, Commission on Local Government at 786-6508.

## VIRGINIA CODE COMMISSION

### NOTICE TO STATE AGENCIES

**Mailing Address:** Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: 371-0169.

### FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

#### FORMS:

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



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# CALENDAR OF EVENTS

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## 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

##### BOARD FOR ACCOUNTANCY

**October 13, 1994 - 10 a.m.** – Open Meeting

**October 19, 1994 - 8 a.m.** – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

An open meeting to conduct review and disposition of applications, correspondence, enforcement files, regulatory review and any other matters which may require board action. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made for any appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

### DEPARTMENT FOR THE AGING

#### Advisory Committee on Consolidation of Long-Term Care and Aging Services

† **November 10, 1994 - 10 a.m.** – Open Meeting  
Monroe Towers, 101 North 14th Street, Room E, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

An open meeting to discuss state-level consolidation of long-term care and aging services and begin developing a plan to ensure the coordination and enhancement of service delivery at the local level.

**Contact:** Cathy Saunders, Director, Long-Term Care Council, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2912.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Egg Council

† **October 18, 1994 - 10 a.m.** – Open Meeting  
Holiday Inn Airport, 6626 Thirlane Road, N.W., Roanoke, Virginia. ♿

The board will meet to discuss industry business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Cecilia Glembocki at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Cecilia Glembocki, Program Director, Department of Agriculture and Consumer Services, 911 Saddleback Court, McLean, VA 22102, telephone (703) 734-8931.

#### Virginia Farmers' Market Board

† **October 20, 1994 - 9 a.m.** – Open Meeting  
Eastern Shore Chamber of Commerce, 19056 Parkway, Melfa, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct routine board business and to receive update of all farmers' markets within the network system. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who

needs any accommodation in order to participate at the meeting should contact Nancy Israel at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Nancy Israel, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 1002, Richmond, VA 23219, telephone (804) 371-6157.

## Virginia Winegrower's Advisory Board

**November 1, 1994 - 10 a.m.** – Open Meeting  
Boar's Head Inn and Sports Club, Route 250 West, Tack Room, Charlottesville, Virginia. ♠ (Interpreter for the deaf provided upon request)

A meeting to hear committee and project monitor reports and review old and new business. Public comment is welcome following the conclusion of board business. Any person who needs any accommodation in order to participate at the meeting should contact Mary Davis-Barton at least 14 days before the meeting date so that suitable arrangements can be made.

**Contact:** Mary Davis-Bacon, Secretary, Virginia Winegrower's Advisory Board, 1100 Bank St., Suite 1009, Richmond, VA 23219, telephone (804) 786-0481.

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **October 20, 1994 - 9 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♠

A meeting to conduct an informal fact-finding conference in regard to the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects v. M.R. Smith, t/a Mel Smith & Associates. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act.

**Contact:** Carol Mitchell, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

## Board for Professional Engineers

† **October 20, 1994 - 1 p.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ♠

A meeting to discuss enforcement files.

**Contact:** Mark N. Courtney, Assistant Director, Board for Professional Engineers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ♠

## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **November 17, 1994 - 9:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♠ (Interpreter for the deaf provided upon request)

A regular board meeting.

**Contact:** Meredyth Partridge, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907 or (804) 662-7197/TDD ♠

**November 17, 1994 - 9:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♠ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

VR 155-01-3, Public Participation Guidelines  
VR 155-01-2, General Regulations

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Meredyth Partridge, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907 or (804) 662-7197/TDD ♠

## VIRGINIA AVIATION BOARD

**October 17, 1994 - 7:30 p.m.** – Open Meeting  
Sheraton Inn, Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A workshop for the Virginia Aviation Board. No formal actions will be taken. Location accessible to handicapped. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

# Calendar of Events

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**Contact:** Cindy P. Waddell, Virginia Aviation Board, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625.

**October 18, 1994 - 10 a.m. – Open Meeting**

Sheraton Inn, Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Location accessible to handicapped. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

**Contact:** Cindy P. Waddell, Virginia Aviation Board, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625.

## BOARD FOR BARBERS

**December 5, 1994 - 9 a.m. – Open Meeting**

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☞

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

\* \* \* \* \*

**November 5, 1994 –** 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 Board for Barbers intends to amend regulations entitled: **VR 170-01-1:1. Board for Barbers Regulations.** The purpose of the proposed amendments is to establish the requirements for licensure of barbers, barber instructors, barber shops and barber schools, including a fee adjustment.

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

**Contact:** Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-0500.

## GOVERNOR'S COMMISSION ON CHAMPION SCHOOLS

† **October 17, 1994 - 6:30 p.m. – Public Hearing**  
Harrisonburg, Virginia (site to be determined)

An opportunity for public input in regard to improving public education. The full commission will review the contents of the public hearing.

**Contact:** Kevin E. Hoeft, Policy Analyst, Governor's Commission on Champion Schools, 506 Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 692-0244.

† **October 20, 1994 - 6:30 p.m. – Public Hearing**  
Brunswick High School, Lawrenceville, Virginia.

An opportunity for public input in regard to improving public education. The full commission will review the contents of the public hearing.

**Contact:** Paul Lagarde, Policy Analyst, Governor's Commission on Champion Schools, 506 Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 692-0244.

† **October 27, 1994 - 6:30 p.m. – Public Hearing**  
Richmond, Virginia (site to be determined)

An opportunity for public input in regard to improving public education. The full commission will review the contents of the public hearing.

**Contact:** Kevin E. Hoeft, Policy Analyst, Governor's Commission on Champion Schools, 506 Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 692-0244.

† **November 2, 1994 - 6:30 p.m. – Public Hearing**  
Roanoke, Virginia (site to be determined)

An opportunity for public input in regard to improving public education. The full commission will review the contents of the public hearing.

**Contact:** Robin L. Zink, Associate Director, Governor's Commission on Champion Schools, 506 Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 692-0244.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

### Central Area Review Committee

† **October 19, 1994 - 2 p.m. – Open Meeting**  
† **November 17, 1994 - 2 p.m. – Open Meeting**  
† **December 14, 1994 - 2 p.m. – Open Meeting**  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☞ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the

Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## Northern Area Review Committee

† **October 20, 1994 - 10 a.m.** – Open Meeting  
† **November 17, 1994 - 10 a.m.** – Open Meeting  
† **December 15, 1994 - 10 a.m.** – Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## Southern Area Review Committee

† **October 25, 1994 - 10 a.m.** – Open Meeting  
† **November 23, 1994 - 10 a.m.** – Open Meeting  
† **December 28, 1994 - 10 a.m.** – Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

## CHILD DAY-CARE COUNCIL

**October 17, 1994 - 4 p.m.** – Public Hearing  
Norfolk City Council Chambers, 810 Union Street, Hall Building, 11th Floor, Norfolk, Virginia.

**October 19, 1994 - 4 p.m.** – Public Hearing  
Fairfax Government Center, 12011 Government Center Parkway, Human Services Building, 2nd Floor, Room 230,

Fairfax, Virginia.

**October 22, 1994** – 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 amend regulations entitled: **VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.** The purpose of the proposed amendments is to incorporate therapeutic child development and special needs child day standards into the child day center regulations, as well as review the existing standards for clarity and appropriateness.

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

Written comments may be submitted until October 22, 1994, to Peg Spangenthal, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, Virginia 23219.

**Contact:** Peggy Friedenber, Policy Analyst, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

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**October 17, 1994 - 4 p.m.** – Public Hearing  
Norfolk City Council Chambers, 810 Union Street, Hall Building, 11th Floor, Norfolk, Virginia.

**October 19, 1994 - 4 p.m.** – Public Hearing  
Fairfax Government Center, 12011 Government Center Parkway, Human Services Building, 2nd Floor, Room 230, Fairfax, Virginia.

**October 22, 1994** – 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 amend regulations entitled: **VR 175-09-01. Minimum Standards for Child Day Centers Serving School Age Children.** The purpose of the proposed amendments is to incorporate therapeutic child development and special needs child day standards into the child day center regulations, as well as review the existing standards for clarity and appropriateness.

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

Written comments may be submitted until October 22, 1994, to Peg Spangenthal, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, Virginia 23219.

**Contact:** Peggy Friedenber, Policy Analyst, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

# Calendar of Events

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## DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

† **October 19, 1994 - 6:30 p.m.** – Open Meeting  
Buckingham County Agricultural Center, U.S. Route 60,  
Buckingham Court House, Virginia. ♠ (Interpreter for the  
deaf provided upon request)

A public information gathering meeting for the James  
River park site in Buckingham County. A draft plan  
will be provided for comments. An  
architectural/engineering consultant and park manager  
will give highlights and an overview of site.

**Contact:** J. Scott Shanklin, Park Manager, Bear Creek Lake  
State Park, Route 1, Box 253, Cumberland, VA 23040-9518,  
telephone (804) 492-4410.

† **October 20, 1994 - 7 p.m.** – Open Meeting  
E. Wilson Morrison Elementary School, 40 Cresant Street,  
Front Royal, Virginia. ♠ (Interpreter for the deaf provided  
upon request)

A public information gathering meeting for the new  
state park to be located on the Shenandoah River in  
Warren County. Site analysis information and  
preliminary program ideas will be provided. An  
architectural/engineering consultant and state park's  
project team will be available to receive public input.

**Contact:** Jess Lowry, Park Manager, Sky Meadows State  
Park, 11012 Edmonds Lane, Delaplan, VA 22025-9508,  
telephone (703) 592-3556.

**November 9, 1994 - 9 a.m.** – Open Meeting  
Virginia War Memorial, 621 Belvidere Street, Richmond,  
Virginia. ♠

An ad hoc committee will convene to review the  
following regulations in accordance with the  
Governor's Executive Order 15(94):

Agenda: 9 a.m. to 9:30 a.m.

VR 215-00-00. Regulatory Public Participation  
Procedures  
VR 217-00-00. Regulatory Public Participation  
Procedures  
VR 625-00-00:1. Regulatory Public Participation  
Procedures

9:30 a.m. to 11:30 a.m.

VR 215-01-02. Virginia State Park Regulations  
VR 215-01-03. Virginia State Forest Regulations

1 p.m. to 3 p.m.

VR 215-01-01. Standards for the Classification of Real  
Estate as Devoted to Open Space Use Under the  
Virginia Land Use Assessment Law

**Contact:** Leon E. App, Regulatory Coordinator, Department  
of Conservation and Recreation, 203 Governor St., Suite  
302, Richmond, VA 23219, telephone (804) 786-4570, FAX  
(804) 786-6141 or (804) 786-2121/TDD ♠

**November 9, 1994 - 7 p.m.** – Open Meeting  
Virginia War Memorial, 621 Belvidere Street, Richmond,  
Virginia. ♠

A public meeting to accept public comments  
concerning the following regulations in accordance  
with the Governor's Executive Order 15(94):

Board of Conservation and Recreation

VR 215-00-00. Regulatory Public Participation  
Procedures  
VR 215-02-00. Stormwater Management Regulations  
(this review will be made in coordination with the  
ongoing regulatory action to amend the regulations)

Department of Conservation and Recreation

VR 217-00-00. Regulatory Public Participation  
Procedures  
VR 215-01-01. Standards for the Classification of Real  
Estate as Devoted to Open Space Use Under the  
Virginia Land Use Assessment Law.  
VR 215-01-02. Virginia State Park Regulations  
VR 215-01-03. Virginia State Forest Regulations

Virginia Soil and Water Conservation Board

VR 625-00-00:1. Regulatory Public Participation  
Procedures  
VR 625-01-00. Impounding Structure Regulations  
VR 625-03-00. Flood Prevention and Protection  
Assistance Fund Regulations

**Contact:** Leon E. App, Regulatory Coordinator, Department  
of Conservation and Recreation, 203 Governor St., Suite  
302, Richmond, VA 23219, telephone (804) 786-4570, FAX  
(804) 786-6141 or (804) 786-2121/TDD ♠

## Catoctin Creek Scenic River Advisory Board

**October 28, 1994 - 2 p.m.** – Open Meeting  
The Frame Shop (next door to Taylorstown store),  
Taylorstown, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program  
Manager, Department of Conservation and Recreation,  
Division of Planning and Recreation Resources, 203  
Governor St., Suite 326, Richmond, VA 23219, telephone  
(804) 786-4132 or (804) 786-2121/TDD ♠

## Virginia Chesapeake Bay Tributary Strategies

**October 17, 1994 - 7:30 p.m.** – Open Meeting

# Calendar of Events

Augusta County Governmental Center, 4801 Lee Highway, Verona, Virginia. ☎

**October 19, 1994 - 7:30 p.m.** – Open Meeting  
Middleburg Community Center, 300 West Washington Street, Middleburg, Virginia. ☎

**October 24, 1994 - 7:30 p.m.** – Open Meeting  
Lord Fairfax Community College, 173 Skirmisher Lane, Middletown, Virginia. ☎

**October 26, 1994 - 7:30 p.m.** – Open Meeting  
Northern Virginia Community College, 8333 Littleriver Turnpike, Annandale, Virginia. ☎

Virginia is holding a series of meetings to gather information and ideas from the public in developing strategies to reduce nutrient loads in the Potomac River. Meetings are designed to get concerns, concepts and potential strategies on nutrient control from citizens of the Potomac River basin. The reduction strategies for the Potomac River will also serve to help develop similar strategies for Virginia's other Chesapeake Bay tributaries. The reduction strategies will address point (treatment plants, industrial discharges, etc.) and nonpoint (runoff from agricultural fields, residential areas, stormwater, etc.) sources of pollution.

**Contact:** Gary Waugh, Public Relations Manager, Department of Conservation and Recreation, 203 Governor St., Suite 213, Richmond, VA 23219, telephone (804) 786-5045 or (804) 786-2121/TDD ☎

## Falls of the James Scenic River Advisory Board

† **October 20, 1994 - Noon** – Open Meeting  
Richmond City Hall, Recreation and Parks Conference Room, 4th Floor, Richmond, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

## BOARD FOR CONTRACTORS

**November 4, 1994** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to **repeal** regulations entitled: **VR 220-01-2, Board for Contractors Regulations**, and **adopt** regulations entitled: **VR 220-01-2:1, Board for Contractors Regulations**. The purpose of the proposed regulation is to adjust application and renewal fees, to

add and clarify definitions, to promulgate requirements for Class C contractors in accordance with new statutory requirements, and to amend its standards of practice and conduct.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-1102 of the Code of Virginia.

**Contact:** Geralde W. Morgan, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

## Regulatory Review Committee

**October 27, 1994 - 9 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

The committee will meeting to recommend the adoption of the proposed regulations and to review written comments from the public regarding the proposed regulations. The meeting is open to the public.

**Contact:** Geralde W. Morgan, Regulatory Boards Administrator Senior, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

## BOARD OF CORRECTIONAL EDUCATION

† **October 21, 1994 - 10 a.m.** – Open Meeting  
Bon Air Juvenile Correctional Center, 1900 Chatsworth Avenue, Bon Air, Virginia.

A monthly meeting to discuss general business.

**Contact:** Patty Ennis, Board Clerk, Board of Correctional Education, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314.

## BOARD FOR COSMETOLOGY

† **October 27, 1994 - 10 a.m.** – Open Meeting  
Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia. ☎

A meeting to conduct a formal administrative hearing in regard to the Board for Cosmetology v. Ayliano's Hair Studio. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

**Contact:** Carol Mitchell, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

# Calendar of Events

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**November 7, 1994 - 10 a.m. – Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

\* \* \* \* \*

**November 7, 1994 - 10 a.m. – Public Hearing**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.

**December 3, 1994 –** Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Cosmetology intends to **repeal** regulations entitled: **VR 235-01-02, Board for Cosmetology Regulations, and VR 235-01-03, Nail Technician Regulations, and adopt** regulations entitled: **VR 235-01-02:1, Board for Cosmetology Regulations.** The purpose of this regulatory action is to repeal the existing Board for Cosmetology Regulations (VR 235-01-02) and Nail Technician Regulations (VR 235-01-03) and combine them into one set of new regulations (VR 235-01-02:1). The proposed regulations will achieve consistency with existing barber regulations and statutes as well as current board policies. Further, the proposed regulations will amend the Board for Cosmetology's license renewal procedures.

Statutory Authority: §§ 54.1-201 and 54.1-1202 B of the Code of Virginia.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

## BOARD OF DENTISTRY

**November 4, 1994 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board

will receive comments on the following regulations:

VR 255-01-2, Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9906.

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**October 27, 1994 - 8:30 a.m. – Open Meeting**  
**November 17, 1994 - 8:30 a.m. – Open Meeting**  
General Assembly Building, 910 Capitol Square, Richmond,  
Virginia. ☎ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

**Contact:** James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2924 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER COUNTY

**October 26, 1994 - 6:30 p.m. – Open Meeting**  
Gloucester County Administration Building, 6582 Main  
Street, Conference Room, Gloucester, Virginia. ☎

The fall quarterly meeting. Matters to come before the committee include an annual update of the plan, appointment of a nominating committee and discussion of an annual exercise.

**Contact:** Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042 or (804) 693-1478/TDD ☎

## LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY AND MANASSAS PARK CITY

† **October 17, 1994 - 1:30 p.m. – Open Meeting**  
One County Complex Court, Potomac Conference Room,

Prince William, Virginia. ⚡

A multi-jurisdictional local emergency planning committee to discuss issues related to hazardous substances in the jurisdictions, and SARA Title III provisions and responsibilities for hazardous material emergency response planning.

**Contact:** John E. Medici, Hazardous Materials Officer, Local Emergency Planning Committee, One County Complex Court, Internal Zip MC470, Prince William, VA 22192, telephone (703) 792-6800.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**October 27, 1994 - 7:30 p.m. – Open Meeting**

Roanoke County Administration Center, 5294 Bernard Drive, Board of Supervisor's Meeting Room, Roanoke, Virginia.

Pursuant to § 10.1-1184 of the Code of Virginia, representatives of the State Air Pollution Control Board, State Water Control Board, Virginia Waste Management Board and the Department of Environmental Quality will hold a joint public forum to receive public comments about environmental issues of concern to the Commonwealth. Additionally, a brief overview of the Department of Environmental Quality's reorganization and the department's regulatory review program will be presented.

**Contact:** Cindy M. Berndt, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378.

## FAMILY AND CHILDREN'S TRUST FUND OF VIRGINIA

† **October 21, 1994 - 10 a.m. – Open Meeting**

Department of Social Services, 730 East Broad Street, Richmond, Virginia. ☒

An executive committee meeting.

**Contact:** Jane Weirich, Executive Director, Family and Children's Trust Fund of Virginia, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1823.

† **October 21, 1994 - 10 a.m. – Open Meeting**

301 Columbia Street, Portsmouth, Virginia. ⚡

A fund raising committee meeting.

**Contact:** Jane Weirich, Executive Director, Family and Children's Trust Fund of Virginia, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1823.

## VIRGINIA FIRE SERVICES BOARD

**October 17, 1994 - 7 p.m. – Public Hearing**

Lynchburg Fire Administration, 800 Madison Street, Lynchburg, Virginia.

A public hearing to discuss consolidation of fire and emergency service organizations. The hearing is open to the public for input and comments.

**Contact:** Bobby L. Stanley, Jr., Acting Executive Director, Virginia Fire Services Board, 2807 N. Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## BOARD OF FORESTRY

† **October 25, 1994 - 8:30 a.m. – Open Meeting**

Department of Forestry, 2229 East Nine Mile Road, Sandston, Virginia. ⚡

A general business meeting.

**Contact:** Barbara A. Worrell, Administrative Staff Specialist, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555/TDD ☎

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**October 18, 1994 - 9:30 a.m. – Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ⚡ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

VR 320-01-5, Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Meredyth Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

† **November 9, 1994 - 9:30 a.m. – Open Meeting**

Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ⚡

A regular board meeting.



# Calendar of Events

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**Contact:** Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

## BOARD FOR GEOLOGY

† **December 1, 1994 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 3, Richmond,  
Virginia. ♠

A regular meeting.

**Contact:** David A. Vest, Board Administrator, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8307 or (804) 367-9753/TDD ☎

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**October 20, 1994 - 10 a.m.** – Open Meeting  
Holiday Inn, 551 Highway 58 East, Norton, Virginia. ♠  
(Interpreter for the deaf provided upon request)

There will be a work session from 10 a.m. to 5 p.m., and then an informal dinner at 6:30 p.m.

**Contact:** Susan R. Rowland, MPA, Assistant to the Commissioner, Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

**October 21, 1994 - 9 a.m.** – Open Meeting  
Holiday Inn, 551 Highway 58 East, Norton, Virginia. ♠  
(Interpreter for the deaf provided upon request)

A continued worksession and tour, a meeting with the legislators, and adjournment.

**Contact:** Susan R. Rowland, MPA, Assistant to the Commissioner, Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

† **December 1, 1994 - Noon** – Open Meeting  
Omni Hotel, 100 South 12th Street, Richmond, Virginia. ♠  
(Interpreter for the deaf provided upon request)

A worksession of the board. An informal dinner will follow at 6:30 p.m.

**Contact:** Rosanne Kolesar, Office of the Commissioner, Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 786-3564.

† **December 2, 1994 - 9 a.m.** – Open Meeting  
Omni Hotel, 100 South 12th Street, Richmond, Virginia. ♠  
(Interpreter for the deaf provided upon request)

A business meeting and adjournment.

**Contact:** Rosanne Kolesar, Office of the Commissioner, Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 786-3564.

## BOARD OF HEALTH PROFESSIONS

† **October 18, 1994 - 9 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
4th Floor, Conference Room 3, Richmond, Virginia. ♠  
(Interpreter for the deaf provided upon request)

A meeting of the Regulatory Research Committee. Brief public comment will be accepted at the beginning of the meeting.

**Contact:** Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ☎

† **October 18, 1994 - 11 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia. ♠  
(Interpreter for the deaf provided upon request)

A meeting of the Practitioner Self-Referral Act Committee. Brief public comment will be accepted at the beginning of the meeting.

**Contact:** Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ☎

† **October 18, 1994 - 11:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. ♠  
(Interpreter for the deaf provided upon request)

A regular board meeting. Brief public comment will be accepted at the beginning of the meeting.

**Contact:** Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ☎

**October 18, 1994 - 11:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia. ♠ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations:

VR 365-01-1.1. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the

citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Robert A. Nebiker, Deputy Director, Board of Health Professions, 6606 W. Broad St, 4th Floor, Richmond, VA 23230, telephone (804) 662-9904.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**October 25, 1994 - 9:30 a.m.** – Open Meeting  
**November 22, 1994 - 9:30 a.m.** – Open Meeting  
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

A monthly meeting.

**Contact:** Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## COMMISSION ON THE FUTURE OF HIGHER EDUCATION IN VIRGINIA

**October 20, 1994 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎

† **November 22, 1994 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎

The commission was created by SJR 139 (1994) and was charged with considering issues of importance to higher education in Virginia. For more information contact the council.

**Contact:** Anne M. Pratt, Associate Director, Commission on the Future of Higher Education, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2639.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**October 21, 1994 - 10 a.m.** – Public Hearing  
State Council of Higher Education for Virginia, 101 North 14th Street, 9th Floor, Conference Room, Richmond, Virginia.

**December 4, 1994** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the State Council of Higher Education for Virginia intends to amend regulations entitled: **VR 380-01-00. Public Participation Guidelines.** The proposed amendments correct some unclear language and put the regulations in compliance with the Administrative Process Act and Chapter 898 of the 1993 Acts of Assembly.

Statutory Authority: §§ 9-6.14:7.1 and 23-9.6:1 of the Code of Virginia.

**Contact:** Fran Bradford, Regulatory Coordinator, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

## DEPARTMENT OF HISTORIC RESOURCES

### Board of Historic Resources

**October 19, 1994 - 10 a.m.** – Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A general business meeting.

**Contact:** Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

**November 2, 1994 - 7 p.m.** – Open Meeting  
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

In compliance with Executive Order 15(94), the Department of Historic Resources and the Board of Historic Resources are reviewing their existing regulations. The department and the board will hold two public meetings to receive comments on the following regulations:

VR 390-01-02. Regulations Governing Permits for the Archaeological Excavation of Human Remains

VR 390-01-03. Regulations for the Evaluation Criteria and Procedures for Designation of Virginia Landmarks by the Historic Resources Board

VR 392-01-02. Regulations for Evaluation Criteria and Procedures for Nomination of Properties to the National Register or for Designation as National Historic Landmarks by the Department of Historic Resources

VR 390-01-01. Regulations Governing Public Participation Guidelines for the Historic Resources Board

VR 392-01-01. Regulations Governing Public

# Calendar of Events

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## Participation for the Department of Historic Resources

The agency is specifically seeking comments on provisions (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected. Written comments will be received until December 1, 1994.

**Contact:** Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## November 9, 1994 - 7 p.m. – Open Meeting

Roanoke Municipal Building, 215 Church Avenue, S.W., Council Chambers, Roanoke, Virginia. ♠ (Interpreter for the deaf provided upon request)

In compliance with Executive Order 15(94), the Department of Historic Resources and the Board of Historic Resources are reviewing their existing regulations. The department and the board will hold two public meetings to receive comments on the following regulations:

VR 390-01-02. Regulations Governing Permits for the Archaeological Excavation of Human Remains

VR 390-01-03. Regulations for the Evaluation Criteria and Procedures for Designation of Virginia Landmarks by the Historic Resources Board

VR 392-01-02. Regulations for Evaluation Criteria and Procedures for Nomination of Properties to the National Register or for Designation as National Historic Landmarks by the Department of Historic Resources

VR 390-01-01. Regulations Governing Public Participation Guidelines for the Historic Resources Board

VR 392-01-01. Regulations Governing Public Participation for the Department of Historic Resources

The agency is specifically seeking comments on provisions (i) which are not mandated by state or federal laws, are not essential to protect the health, safety and welfare of citizens or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or

federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individual and entities affected. Written comments will be received until December 1, 1994.

**Contact:** Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## State Review Board

### October 18, 1994 - 10 a.m. – Open Meeting

State Capitol, House Room 1, Richmond, Virginia. ♠ (Interpreter for the deaf provided upon request)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

1. Alexandria National Cemetery, Alexandria.
2. Marion Norfolk and Western Railway Depot, Marion, Smyth County.
3. Oakton Trolley Station, Fairfax County.
4. Steamer Company No. 5, City of Richmond.
5. Sunrise, Frederick County.
6. Charlotte Court House Historic District, Charlotte County.

The board will receive public comment on the 1995 federal work plan.

**Contact:** Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

### November 1, 1994 - 9 a.m. – Open Meeting

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ♠ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

### † October 25, 1994 - Noon – Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♠

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior monthly; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

\* \* \* \* \*

† November 3, 1994 - 10 a.m. - Public Hearing Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

† November 3, 1994 - Written comments may be submitted until this date.

Notice is hereby given that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.** The proposed amendment changes the requirement that the authority re-examine and redetermine the income and eligibility of occupants of multi-family dwelling units from every two years to every three years.

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

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St, Richmond, VA 23220, telephone (804) 782-1986.

\* \* \* \* \*

† November 3, 1994 - 10 a.m. - Public Hearing Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

† November 3, 1994 - Written comments may be submitted until this date.

Notice is hereby given that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.** The proposed amendments (i) provide for changes in the processing of multi-family loan applications; (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications; (iii) simplify various provisions; and (iv) make minor

clarifications and corrections.

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

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St, Richmond, VA 23220, telephone (804) 782-1986.

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† November 3, 1994 - 10 a.m. - Public Hearing Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

† November 3, 1994 - Written comments may be submitted until this date.

Notice is hereby given that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.** The proposed amendments (i) provide for changes in the processing of loan applications for such developments; (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications; (iii) simplify various provisions; and (iv) make minor clarifications and corrections.

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

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St, Richmond, VA 23220, telephone (804) 782-1986.

\* \* \* \* \*

† November 3, 1994 - 10 a.m. - Public Hearing Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

† November 3, 1994 - Written comments may be submitted until this date.

Notice is hereby given that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0014. Rules and Regulations for the Acquisition of Multi-Family Housing.** The proposed amendments (i) provide for changes in the processing of multi-family development acquisition applications; (ii) eliminate regulatory provisions which are no longer necessary or required in the processing of such applications; (iii) simplify various provisions; and (iv) make minor clarifications and corrections.

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

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St, Richmond, VA 23220, telephone (804) 782-1986.

# Calendar of Events

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## HJR NO. 76 INTERNET STUDY COMMITTEE

† **October 20, 1994 - 10 a.m.** – Open Meeting  
† **November 3, 1994 - 10 a.m.** – Open Meeting  
† **November 17, 1994 - 10 a.m.** – Open Meeting  
Department of Information Technology, Richmond Plaza Building, 110 South 7th Street, 3rd Floor, Richmond, Virginia. ☞

A meeting to study whether the Commonwealth needs to establish protocols and guidelines regarding in-state access to the myriad files and components available through the Internet.

**Contact:** Marty Gillespie, Director of Security, Department of Information Technology, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 344-5705.

## LIBRARY BOARD

**November 14, 1994 - 10:30 a.m.** – Open Meeting  
Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☞

A meeting to discuss administrative matters of the Library of Virginia.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Executive Committee

**November 13, 1994 - 7 p.m.** – Open Meeting  
Location to be announced.

A meeting to discuss matters pertaining to the Library Board.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Public Library Development Committee

**November 14, 1994 - 8:30 a.m.** – Open Meeting  
Library of Virginia, Library Development and Networking Division, 11th Street at Capitol Square, Room 4-24, Richmond, Virginia. ☞

A meeting to discuss matters pertaining to Public Library Development and the Library Board.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## STATE COUNCIL ON LOCAL DEBT

† **October 19, 1994 - 11 a.m.** – Open Meeting  
† **November 16, 1994 - 11 a.m.** – Open Meeting  
† **December 21, 1994 - 11 a.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☞

A regular meeting; subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether or not the meeting is to be held as scheduled.

**Contact:** Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

## COMMISSION ON LOCAL GOVERNMENT

† **November 30, 1994 - 3 p.m.** – Open Meeting  
Hillsville, Virginia (location to be determined)

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☞

**December 12, 1994 - 9 a.m.** – Open Meeting  
**December 13, 1994 - 9 a.m.** – Open Meeting  
**December 14, 1994 - 9 a.m.** – Open Meeting  
Ashland-Hanover County area; site to be determined.

Oral presentations regarding the petition by the Town of Ashland seeking a Commission on Local Government order establishing the rights of the town to annex territory in Hanover County by ordinance pursuant to § 15.1-1058.4 of the Code of Virginia. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission office.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☞

**December 12, 1994 - 7:30 p.m.** – Public Hearing  
Ashland-Hanover County area; site to be determined.

Public hearing regarding a petition by the Town of Ashland seeking a Commission on Local Government order establishing the rights of the town to annex

territory in Hanover County by ordinance pursuant to § 15.1-1058.4 of the Code of Virginia. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508.

LONGWOOD COLLEGE

Board of Visitors

† October 29, 1994 - 9 a.m. - Open Meeting Longwood College, Ruffner Building, Farmville, Virginia. Ⓜ

A meeting to conduct routine business.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

STATE LOTTERY BOARD

† October 24, 1994 - 10 a.m. - Open Meeting State Lottery Department, 2201 West Broad Street, Richmond, Virginia. Ⓜ (Interpreter for the deaf provided upon request)

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or (804) 367-3000/TDD ☎

VIRGINIA MANUFACTURED HOUSING BOARD

October 26, 1994 - 10 a.m. - Open Meeting Department of Housing and Community Development, Jackson Center, 501 North 2nd Street, Richmond, Virginia. Ⓜ (Interpreter for the deaf provided upon request)

A regular montly meeting.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

† October 25, 1994 - 9:30 a.m. - Open Meeting

Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. Ⓜ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; hear appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans, fishery conservation issues, licensing and shellfish leasing. Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† October 18, 1994 - 10 a.m. - Open Meeting Department of Medical Assistance Services, 600 East Broad Street, Board Room, Suite 1300, Richmond, Virginia. Ⓜ

An open meeting to discuss medical assistance services and to take action on issues pertinent to the board.

Contact: Patricia A. Sykes, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958.

\* \* \* \* \*

October 21, 1994 - Written comments may be submitted through 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 amend regulations entitled: **VR 460-03-3.1100. Amount, Duration, and Scope of Services: (Reimbursement for Organ Transplant Services)**. The purpose of this proposal is to amend the state plan to clarify the requirements and process for determining the level of reimbursement available for covered transplant services.

As a result of court action in which the Department of Medical Assistance Services (DMAS) was required to reimburse providers for covered transplantation

# Calendar of Events

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services, DMAS developed the current state plan amendment. At that time, emergency (and subsequently final) regulations were promulgated which stated that reimbursement for covered transplant services and any other medically necessary transplantation procedures that are determined to not be experienced or investigational would be based upon a rate negotiated with providers on an individual basis, or a flat rate by procedure, or by procedure and facility.

This proposed regulation is intended to describe more specifically the reimbursement process that has been in effect since the promulgation of the current regulation. In summary, reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures shall be a fee based upon the greater of a prospectively determined, procedure-specific, flat fee determined by the agency, or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover all procurement costs, hospital costs, and physician costs, including such physicians as radiologists, pathologists, oncologists, surgeons, etc., but will not include pre- and post-hospitalization for the transplant procedure or pre-transplant evaluation. In addition, reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for procedures performed in state.

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

Written comments may be submitted through October 21, 1994, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

\* \* \* \* \*

**November 4, 1994** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-2.2100:1, Coverage and Conditions of Eligibility (Attachment 2.2-A); VR 460-02-2.6100:1, Eligibility Conditions and Requirements (Attachment 2.6-A); VR 460-03-2.6101:1, Income Eligibility Levels (Supplement 1 to Attachment 2.6-A); More Liberal Income Disregards (Supplement 8a to Attachment 2.6-A); and VR 460-03-2.6108.2, More Liberal Methods of Treating Resources under § 1902(r)(2) of the Act (Supplement 8b to Attachment 2.6-A): Expanded**

**Coverage for Children Ages 6 to 19.** The purpose of these amendments is to conform existing policy with federal requirements regarding the placement of eligibility policy within the state plan.

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

Written comments may be submitted through November 4, 1994, to Ann Cook, Department of Medical Assistance Services, Division of Policy and Research, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

## BOARD OF MEDICINE

† **October 28, 1994 - 9:30 a.m.** – Open Meeting  
Williamsburg Hilton and National Conference Center, 50 Kingsmill Road, Williamsburg, Virginia. ♠ (Interpreter for the deaf provided upon request)

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed meetings. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-7197/TDD ☎

**November 2, 1994 - 9 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 2, Richmond, Virginia. ♠ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

- VR 465-01-01. Public Participation Guidelines
- VR 465-03-01. Physical Therapy
- VR 465-04-01. Respiratory Therapy
- VR 465-05-01. Physician's Assistant
- VR 465-08-01. Occupational Therapy

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the

board before December 15, 1994.

**Contact:** Eugenia Dorson, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9925.

## Legislative Committee

† **October 28, 1994 - 10 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♠

The Legislative Committee will meet to review VR 465-02-01, § 1.10 B to further define "short term" in the treatment of obesity; VR 465-06-01, Correctional Health Assistants, to delete § 3.1 A 1 and develop problem statements with recommendations to the board. The chairperson will entertain public comments following the adoption of the agenda for 15 minutes on any agenda items.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Licensure, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ♠

## Advisory Board on Physical Therapy

**November 4, 1994 - 9 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ♠  
(Interpreter for the deaf provided upon request)

The board will meet to (i) elect officers; (ii) receive reports; (iii) review and discuss NAFTA and licensure report; and (iv) discuss such other business that may become before the Advisory Board.

Special note: The proposed amendment to the regulations will not be discussed at this meeting. A special meeting will be scheduled to respond to written comments. The chairman will entertain public comments following the adoption of the agenda for 10 minutes on agenda items.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ♠

## Advisory Board on Respiratory Therapy

† **November 16, 1994 - 10 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♠  
(Interpreter for the deaf provided upon request)

The board will meet to elect officers, review current regulations and to discuss any other issues which may come before the board. The chairperson will entertain public comments during the first 15 minutes of the

meeting.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ♠

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **October 24, 1994 - 10 a.m.** – Open Meeting  
Loudoun County Community Services Board, Leesburg, Virginia. ♠

A regular monthly meeting. Agenda to be published on October 17, 1994. Agenda can be obtained by calling Jane Helfrich.

Sunday - Informal session 8 p.m.

Monday - Committee meetings 9 a.m.; regular session 10 a.m.

See agenda for location.

**Contact:** Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

**October 29, 1994 - 8:30 a.m.** – Open Meeting  
Virginia Military Institute, Smith Hall Board Room, Lexington, Virginia. ♠

A regular meeting of the Board of Visitors. Committee reports will be received.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (703) 464-7206 or FAX (703) 464-7660.

## STATE MILK COMMISSION

**October 18, 1994 - Noon** – Open Meeting  
Shenandoah's Pride Dairy, Corner of Route 11 and Route 257, Mount Crawford, Virginia. ♠ (Interpreter for the deaf provided upon request)

A meeting has been scheduled for an orientation for new commission members and a tour of a dairy farm or the Valley of Virginia Cooperative Milk Producers Association milk plant, t/a Shenandoah's Pride Dairy, Mount Crawford, to help familiarize the new and old



# Calendar of Events

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commission members about the dairy industry.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. Ninth St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or (804) 786-2013/TDD ☎

**October 19, 1994 - 8:30 a.m. – Open Meeting**  
Shenandoah's Pride Dairy, Corner of Route 11 and Route 257, Mount Crawford, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, fiscal matters, and to receive reports from staff of the Milk Commission. The commission may consider other matters pertaining to its responsibilities. Immediately following the meeting a tour of a dairy farm or the Valley of Virginia Cooperative Milk Producers Association, t/a Shenandoah's Pride Dairy, Mount Crawford, whichever of the two that was not conducted on the prior day. Any persons who require accommodations in order to participate at the meeting should contact Edward C. Wilson, Jr. at least five days prior to the meeting so that suitable arrangements can be made.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, 200 N. Ninth St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or (804) 786-2013/TDD ☎

## JOINT COMMITTEE ON PRESCRIPTIVE AUTHORITY FOR NURSE PRACTITIONERS

**December 5, 1994 - 1 p.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 465-12-01 and VR 495-03-01. Prescriptive Authority for Nurse Practitioners

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Corinne Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909.

## BOARD OF NURSING

**October 17, 1994 - 9 a.m. – Open Meeting**  
**October 18, 1994 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A special conference committee, comprised of two members of the Virginia Board of Nursing, will conduct informal conferences with licensees to determine what, if any, action should be recommended to the board. Public comment will not be received.

**Contact:** M. Teresa Mullin, R.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

**November 15, 1994 - 1:30 p.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter services for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 495-04-01. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Corinne Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

## Education Advisory Committee

**† October 24, 1994 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will meet to consider matters related to educational programs approved by the Board of Nursing and to make recommendations to the board as needed.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804)

662-7197/TDD ☎

## BOARD OF NURSING HOME ADMINISTRATORS

† **November 29, 1994 - 9:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf  
provided upon request)

A regular board meeting.

**Contact:** Meredyth Partridge, Executive Director, Board of  
Nursing Home Administrators, 6606 W. Broad St.,  
Richmond, VA 23230-1717, telephone (804) 662-9907 or  
(804) 662-7197/TDD ☎

**November 29, 1994 - 9:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf  
provided upon request)

Pursuant to Executive Order 15(94) requiring a  
comprehensive review of all regulations, the board  
will receive comments on the following regulations.

VR 500-01-2:1. General Regulations  
VR 500-01-3. Public Participation Guidelines

These regulations will be reviewed to ensure (i) that  
it is essential to protect the health and safety of the  
citizens or necessary for the performance of an  
important government function; (ii) that it is mandated  
or authorized by law; (iii) that it offers the least  
burdensome alternative and most reasonable solution;  
and (iv) that it is clearly written and easily  
understandable. Written comment may be sent to the  
board before December 15, 1994.

**Contact:** Meredyth Partridge, Executive Director, Board of  
Nursing Home Administrators, 6606 W. Broad St.,  
Richmond, VA 23230-1717, telephone (804) 662-9907 or  
(804) 662-7197/TDD ☎

## BOARD OF OPTOMETRY

**October 19, 1994 - 9 a.m.** – Cancelled  
Department of Health Professions, 6606 West Broad Street,  
4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf  
provided upon request)

Informal conference committee hearings have been  
cancelled.

**Contact:** Carol Stamey, Administrative Assistant, Board of  
Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9910 or (804)  
662-7197/TDD ☎

**November 21, 1994 - 8 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,

5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf  
provided upon request)

Pursuant to Executive Order 15(94) requiring a  
comprehensive review of all regulations, the board  
will receive comments on the following regulations.

VR 510-01-2. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it  
is essential to protect the health and safety of the  
citizens or necessary for the performance of an  
important government function; (ii) that it is mandated  
or authorized by law; (iii) that it offers the least  
burdensome alternative and most reasonable solution;  
and (iv) that it is clearly written and easily  
understandable. Written comment may be sent to the  
board before December 15, 1994.

**Contact:** Elizabeth Carter, Executive Director, Board of  
Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9910.

## VIRGINIA OUTDOORS FOUNDATION

† **October 17, 1994 - 10 a.m.** – Open Meeting  
Monroe Building, 101 North 14th Street, 3rd Floor,  
Treasury Board Conference Room, Richmond, Virginia. ☎

A general business meeting. Agenda available on  
request.

**Contact:** Leslie H. Grayson, Acting Executive Director,  
Virginia Outdoors Foundation, P.O. Box 322, Aldie, VA  
22001, telephone (703) 327-6118 or FAX (703) 327-6444.

## PRIVATE SECURITY SERVICES ADVISORY BOARD

**October 26, 1994 - 9 a.m.** – Open Meeting  
Sheraton Oceanfront, 36th and Atlantic Avenues, Virginia  
Beach, Virginia. ☎

A meeting to discuss private security industry issues.

**Contact:** Roy Huhta, Assistant, Department of Criminal  
Justice Services, Private Security Section, P.O. Box 10110,  
Richmond, VA 23240-9998, telephone (804) 786-4700.

## BOARD OF PROFESSIONAL COUNSELORS

**December 2, 1994 - 9:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. ☎ (Interpreter for the deaf provided  
upon request)

Pursuant to Executive Order 15(94) requiring a  
comprehensive review of all regulations, the board  
will receive comments on the following regulations.

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VR 560-01-01. Public Participation Guidelines  
VR 560-01-03. Substance Abuse Counselor Certification

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

## DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

† **November 4, 1994 - 7 p.m.** – Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.

† **December 19, 1994** – 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 Professional and Occupational Regulation intends to amend regulations entitled: **VR 190-01-1:1. Regulations Governing Employment Agencies.** The purpose of the proposed amendments is to establish the requirements for licensure of employment agencies, employment agency controlling persons and employment agency counselors, including a fee adjustment.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-1302.1 of the Code of Virginia.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

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† **November 9, 1994 - 10 a.m.** – Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 4A, Richmond,  
Virginia.

† **December 19, 1994** – 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 Professional and Occupational Regulation intends to amend regulations entitled: **VR 190-03-1. Regulations Governing Polygraph Examiners.** The amendments

clarify the qualifications for licensure and licensure by reciprocity, establish a waiver of internship requirement, provide information regarding examination, simplify procedures for renewal and reinstatement of licenses, and establish criteria for approval of polygraph schools. The most substantive change is the increase in fees for polygraph licenses, intern registrations, examination, and renewal and reinstatement fees as needed in accordance with § 54.1-113 of the Code of Virginia. All other amendments are for clarity, simplicity, and readability.

Statutory Authority: §§ 54.1-113 and 54.1-1802 of the Code of Virginia.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

## PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ADVISORY COUNCIL

**October 20, 1994 - 9 a.m.** – Open Meeting  
Shoney's Inn, 7007 West Broad Street, Conference Room 110, Richmond, Virginia. ♯ (Interpreter for the deaf provided upon request)

A regular bimonthly council meeting. Time is provided for public comment at the start of the meeting.

**Contact:** Kenneth Shores, PAIMI Coordinator, Department for Rights of Virginians with Disabilities, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962 VOICE/TDD ♯

## BOARD OF PSYCHOLOGY

**December 6, 1994 - 8:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ♯ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 565-01-1:1. Public Participation Guidelines .

Each regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

**Contact:** Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913.

## Advisory Committee on Certified Practices

† **October 28, 1994 - 10 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☞

A meeting to develop regulations for certification of sex offender treatment providers.

**Contact:** Janet Delorme, Research Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

## Examination Committee

† **October 28, 1994 - 10:30 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☞

A meeting to conduct general business. No public comment will be received.

**Contact:** Evelyn B. Brown, Executive Director, or Kelli Moss, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

## RADIATION ADVISORY BOARD

**October 25, 1994 - 9 a.m.** – Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. ☞

The board will conduct its annual meeting to discuss radiological health issues. The Bureau of Radiological Health will brief the board on its activities.

**Contact:** Leslie P. Foldesi, Director, Bureau of Radiological Health, 1500 E. Main St., Room 104A, Richmond, VA 23219, telephone (804) 786-5932 or toll-free 1-800-468-0138.

## REAL ESTATE APPRAISER BOARD

**November 1, 1994 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☞

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

**Contact:** Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☞

## Complaints Committee

**November 16, 1994 - 10 a.m.** – Open Meeting  
**December 6, 1994 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☞

A meeting to review complaints prior to the board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☞

## REAL ESTATE BOARD

**December 5, 1994** – 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 Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Real Estate Board Regulations.** The proposed amendments differentiate between sales and leasing practices, eliminate rental location agent regulations, allow use of professional names, clarify other existing regulations, and adjust fees.

**Contact:** Joan L. White, Assistant Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

## BOARD OF REHABILITATIVE SERVICES

† **October 27, 1994 - 10 a.m.** – Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☞ (Interpreter for the deaf provided upon request)

A regular monthly business meeting.

**Contact:** Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice ☞ or (804) 662-9040/TDD ☞

# Calendar of Events

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## VIRGINIA RESOURCES AUTHORITY

**November 8, 1994 - 9:30 a.m.** – Open Meeting

Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the meeting of October 11, 1994; to review the authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

**December 13, 1994 - 9:30 a.m.** – Open Meeting

Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the meeting of November 8, 1994; to review the authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

## SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

**November 2, 1994 - 10 a.m.** – Open Meeting

County of Henrico, Administrative Building, 4301 East Parham Road, Board of Supervisors Board Room, Richmond, Virginia. ☎

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia and VR 355-34-02.

**Contact:** Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, Richmond, VA 23218, telephone (804) 786-1750.

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**October 19, 1994 - 9 a.m.** – Open Meeting

**October 20, 1994 - 9 a.m.** – Open Meeting (if necessary)  
Holiday Inn Portsmouth Waterside, 8 Crawford Parkway, Portsmouth, Virginia. ☎

A work session and formal business meeting of the board.

**Contact:** Phyllis Sisk, Special Assistant to the Commissioner, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

### Ad Hoc Committee

**October 19, 1994 - 1 p.m.** – Open Meeting

James Monroe Building, 101 North 14th Street, Room B, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Executive Order 15(94) requires all state agencies to review existing regulations. The ad hoc committee will meet to conduct a comprehensive review of VR 625-01-00, Virginia Impounding Structure Regulations.

**Contact:** Richard O. Dameron, Environmental Engineer, Sr., Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-6135 or (804) 786-2121/TDD ☎

**October 25, 1994 - 9 a.m.** – Open Meeting

Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia. ☎

Executive Order 15(94) requires all state agencies to review existing regulations. The ad hoc committee will meet to conduct a comprehensive review of VR 625-01-00, Virginia Impounding Structure Regulations.

**Contact:** Paul Scott Peckens, Environmental Programs Manager, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-6133 or (804) 786-2121/TDD ☎

## VIRGINIA TRANSPORTATION SAFETY BOARD

† **November 2, 1994 - 8:30 a.m.** – Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎

A regular quarterly meeting to discuss finalization of federal safety grants.

**Contact:** William H. Leighty, Deputy Commissioner,

Department of Motor Vehicles, 2300 W. Broad St.,  
Richmond, VA 23230, telephone (804) 367-6614.

## TREASURY BOARD

† **October 19, 1994 - 9 a.m.** – Open Meeting  
† **November 16, 1994 - 9 a.m.** – Open Meeting  
† **December 21, 1994 - 9 a.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor,  
Treasury Board Room, Richmond, Virginia. ☎

A regular meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant,  
Department of the Treasury, James Monroe Bldg., 101 N.  
14th St., Richmond, VA 23219, telephone (804) 371-6011.

## BOARD OF VETERINARY MEDICINE

**December 7, 1994 - 8 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf  
provided upon request)

Pursuant to Executive Order 15(94) requiring a  
comprehensive review of all regulations, the board  
will receive comments on the following regulations.

VR 645-01-0:1. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it  
is essential to protect the health and safety of the  
citizens or necessary for the performance of an  
important government function; (ii) that it is mandated  
or authorized by law; (iii) that it offers the least  
burdensome alternative and most reasonable solution;  
and (iv) that it is clearly written and easily  
understandable. Written comment may be sent to the  
board before December 15, 1994.

**Contact:** Elizabeth Carter, Executive Director, Board of  
Veterinary Medicine, 6606 W. Broad St., 4th Floor,  
Richmond, VA 23230-1717, telephone (804) 662-9915.

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Vocational Rehabilitation Council

† **November 12, 1994 - 10:30 a.m.** – Open Meeting  
Department for the Visually Handicapped, Administrative  
Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎

The council meets quarterly to advise the Virginia  
Department for the Visually Handicapped on matters  
related to vocational rehabilitation services for the  
blind and visually impaired citizens of the  
Commonwealth. Interpreter for the deaf provided upon  
request. Request deadline is 3:30 p.m. on October 28,

1994.

**Contact:** James G. Taylor, Vocational Rehabilitation  
Specialist, Department for the Visually Handicapped, 397  
Azalea Ave., Richmond, VA 23227, telephone (804)  
371-3140, toll-free 1-800-662-2155 or (804) 371-3140/TDD ☎

## VIRGINIA VOLUNTARY FORMULARY BOARD

**October 27, 1994 - 10:30 a.m.** – Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor, Board  
Room, Richmond, Virginia.

A meeting to consider public hearing comments and  
review new product data for products pertaining to  
the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Bureau of Pharmacy Services,  
Virginia Voluntary Formulary Board, 109 Governor St.,  
Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

## VIRGINIA WASTE MANAGEMENT BOARD

† **November 2, 1994 - 10 a.m.** – Open Meeting  
Department of Environmental Quality, Innsbrook Corporate  
Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.  
☎ (Interpreter for the deaf provided upon request)

The meeting is held pursuant to §§ 10.1-1401 and  
10.1-1402 of the Code of Virginia. The board has the  
authority to supervise and control waste management  
activities in the Commonwealth.

**Contact:** Cindy M. Berndt, Manager, Regulatory Services,  
Department of Environmental Quality, 629 E. Main St.,  
Richmond, VA 23219, telephone (804) 762-4378 or (804)  
762-4021/TDD ☎

## STATE WATER CONTROL BOARD

**October 18, 1994 - 10 a.m.** – Public Hearing  
Tidewater Regional Office, 287 Pembroke Office Park,  
Suite 310, Conference Room, Virginia Beach, Virginia. ☎  
(Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public  
meeting to receive comments on the proposed Virginia  
Pollutant Discharge Elimination System (VPDES)  
Permit No. VA 0004821 for Texaco Lubricants  
Company, Norfolk Plant, P.O. Box 5827, Chesapeake,  
Virginia 23324. The purpose of this hearing is to  
receive comments on the proposed issuance or denial  
of the permit and the effect of the discharge on water  
quality or beneficial uses of state waters.

**Contact:** Deborah G. Pegram, Hearing Reporter,  
Department of Environmental Quality, P.O. Box 10009,  
Richmond, VA 23240, telephone (804) 762-4041 or (804)

# Calendar of Events

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762-4021/TDD ☎

† **October 20, 1994 - 7 p.m.** – Public Hearing  
Hopewell Community Center, 100 West City Point Road,  
Hopewell, Virginia. ☒

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0066630 for the City of Hopewell-Hopewell Regional Wastewater Treatment Facility, P.O. Box 969, Hopewell, Virginia 23860. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

**Contact:** Doneva A. Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379 or (804) 762-4021/TDD ☎

† **October 26, 1994 - 7 p.m.** – Public Hearing  
Henry County Administration Building, Kings Mountain Road, Board Meeting Room, Collinsville, Virginia. ☒

The State Water Control Board will hold three public hearings to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit Nos. VA0061654, VA0069345 and VA0025303 Upper and Lower Smith River STPs and Martinsville STP. The Upper and Lower Smith River STPs are both owned by Henry County Public Service Authority at Rt. 2, Kings Mountain Road in Martinsville, Virginia 24112, and the Martinsville STP is owned by the City of Martinsville, 55 West Church Street, Martinsville, Virginia 24112. The purpose of the hearings is to receive comments on the proposed issuance or denial of the permits and the effect of the discharge on water quality or beneficial uses of state waters.

**Contact:** Doneva A. Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379 or (804) 762-4021/TDD ☎

## LEGISLATIVE

### VIRGINIA HOUSING STUDY COMMISSION

† **October 27, 1994 - 1:30 p.m.** – Open Meeting  
Marriott Hotel, 500 East Broad Street, Richmond, Virginia.

A meeting to discuss HJR 241, HJR 251, HJR 489(1993), HB 501, HB 1381, SB 97, SB 266, SB 267, and other issues related to affordable housing in Virginia. Persons wishing to speak should contact Nancy Ambler, Esquire, Executive Director, Virginia

Housing Study Commission, 601 South Belvidere Street, Richmond, Virginia 23220, telephone (804) 225-3797.

**Contact:** Nancy D. Blanchard, Virginia Housing Study Commission, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986, extension 5565.

### COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

#### Executive Committee

**November 7, 1994 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☒

A meeting of the committee to review the Virginia Growth Strategies Act and to discuss recommendations from the October commission meeting.

**Contact:** Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Building, 910 Capitol St., Room 519B, Richmond, VA 23219, telephone (804) 371-4949.

### JOINT SUBCOMMITTEE STUDYING STATE AND FEDERAL LAW ON PRIVACY, CONFIDENTIALITY AND MANDATORY DISCLOSURE OF INFORMATION HELD OR USED BY GOVERNMENTAL AGENCIES

**November 15, 1994 - 2 p.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

The subcommittee will meet for the purpose of hearing recommendations. HJR 66.

**Contact:** Ginny Edwards, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### VIRGINIA CODE COMMISSION

#### Title 15.1 Recodification Task Force

**October 20, 1994 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Street, 6th Floor Conference Room, Richmond, Virginia. ☒

A meeting to review working documents for Title 15.1 recodification.

**Contact:** Michelle L. Browning, Operations Staff Assistant, Division of Legislative Services, General Assembly Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### October 17

Aviation Board, Virginia  
Conservation and Recreation, Department of  
- Virginia Chesapeake Bay Tributary Strategies  
† Emergency Planning Committee, Local - Prince  
William County, Manassas City and Manassas Park  
City  
Nursing, Board of  
† Outdoors Foundation, Virginia

#### October 18

Accountancy, Board for  
† Agriculture and Consumer Services, Department of  
- Virginia Egg Council  
Aviation Board, Virginia  
Funeral Directors and Embalmers, Board of  
Health Professions, Board of  
Historic Resources, Department of  
- State Review Board  
† Medical Assistance Services, Board of  
Milk Commission, State  
Nursing, Board of

#### October 19

Accountancy, Board for  
† Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
Conservation and Recreation, Department of  
- Virginia Chesapeake Bay Tributary Strategies  
Historic Resources Board, Virginia  
† Local Debt, State Council on  
Milk Commission, State  
Optometry, Board of  
Social Services, State Board of  
Soil and Water Conservation Board, Virginia  
- Ad Hoc Committee  
† Treasury Board

#### October 20

† Agriculture and Consumer Services, Department of  
- Virginia Farmers' Market Board  
† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
- Board for Professional Engineers  
† Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
† Cosmetology, Board for  
Health, State Board of  
Higher Education, Commission on the Future of  
† Internet Study Committee, HJR No. 76  
Protection and Advocacy for Individuals with Mental  
Illness Advisory Council  
Social Services, State Board of

Virginia Code Commission  
- Title 15.1 Recodification Task Force

#### October 21

† Correctional Education, Board of  
† Family and Children's Trust Fund of Virginia  
Health, State Board of

#### October 24

Conservation and Recreation, Department of  
- Virginia Chesapeake Bay Tributary Strategies  
† Lottery Department, State  
† Mental Health, Mental Retardation and Substance  
Abuse Services, State Board of  
† Nursing, Board of  
- Education Advisory Committee

#### October 25

† Chesapeake Bay Local Assistance Board  
- Southern Area Review Committee  
† Forestry, Board of  
† Housing Development Authority, Virginia  
† Marine Resources Commission, Virginia  
Radiation Advisory Board  
Soil and Water Conservation Board, Virginia  
- Ad Hoc Committee

#### October 26

Conservation and Recreation, Department of  
- Virginia Chesapeake Bay Tributary Strategies  
Emergency Planning Committee, Local - Gloucester  
County  
Health Services Cost Review Council, Virginia  
Manufactured Housing Board, Virginia  
Private Security Services Advisory Board

#### October 27

Contractors, Board for  
- Regulatory Review Committee  
† Cosmetology, Board for  
Education, Board of  
Environmental Quality, Department of  
† Geology, Board for  
† Housing Study Commission, Virginia  
† Rehabilitative Services, Board of  
Voluntary Formulary Board, Virginia

#### October 28

Conservation and Recreation, Department of  
- Catoctin Creek Scenic River Advisory Board  
† Medicine, Board of  
- Legislative Committee  
† Psychology, Board of  
- Advisory Committee on Certified Practices  
- Examination Committee

#### October 29

† Longwood College  
- Board of Visitors  
Virginia Military Institute  
- Board of Visitors



# Calendar of Events

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## November 1

Agriculture and Consumer Services, Department of  
- Virginia Winegrower's Advisory Board  
Hopewell Industrial Safety Council  
Real Estate Appraiser Board

## November 2

Historic Resources, Department of  
- Historic Resources Board  
Medicine, Board of  
Sewage Handling and Disposal Appeals Review Board  
† Transportation Safety Board, Virginia  
† Waste Management Board, Virginia

## November 3

† Internet Study Committee, HJR No. 76

## November 4

Dentistry, Board of  
Medicine, Board of  
- Advisory Board on Physical Therapy

## November 7

Cosmetology, Board for  
Population Growth and Development, Commission on  
- Executive Committee

## November 8

Resources Authority, Virginia

## November 9

Conservation and Recreation, Department of  
† Funeral Directors and Embalmers, Board of  
Historic Resources, Department of  
- Historic Resources Board

## November 10

† Aging, Department for the  
- Advisory Committee on Consolidation of Long-Term  
Care and Aging Services

## November 12

† Visually Handicapped, Department for the  
- Vocational Rehabilitation Council

## November 13

Library Board  
- Executive Committee

## November 14

Library Board  
- Public Library Development Committee

## November 15

Nursing, Board of  
Privacy, Confidentiality and Mandatory Disclosure of  
Information Held or Used by Governmental Agencies,  
Joint Subcommittee Studying State and Federal Law  
on

## November 16

† Local Debt, State Council on  
† Medicine, Board of  
- Advisory Board on Respiratory Therapy  
Real Estate Appraiser Board  
- Complaints Committee  
† Treasury Board

## November 17

Audiology and Speech-Language Pathology, Board of  
† Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
- Northern Area Review Committee  
Education, Board of  
† Internet Study Committee, HJR No. 76

## November 21

Optometry, Board of

## November 22

Health Services Cost Review Council, Virginia  
† Higher Education, Commission on the Future of

## November 23

† Chesapeake Bay Local Assistance Board  
- Southern Area Review Committee

## November 29

Nursing Home Administrators, Board of

## November 30

† Local Government, Commission on

## December 1

† Geology, Board for  
† Health, State Board of

## December 2

† Health, State Board of  
Professional Counselors, Board of

## December 5

Barbers, Board for  
Prescriptive Authority for Nurse Practitioners, Joint  
Committee on

## December 6

Psychology, Board of  
Real Estate Appraiser Board  
- Complaints Committee

## December 7

Veterinary Medicine, Board of

## December 12

Local Government, Commission on

## December 13

Local Government, Commission on  
Resources Authority, Virginia

## December 14

† Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
Local Government, Commission on

**December 12**  
Local Government, Commission on

**December 15**

† Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee

**December 21**

† Local Debt, State Council on  
† Treasury Board

**December 28**

† Chesapeake Bay Local Assistance Board  
- Southern Area Review Committee

## PUBLIC HEARINGS

**October 17**

† Champion Schools, Governor's Commission on  
Child Day-Care Council  
Fire Services Board, Virginia

**October 18**

Water Control Board, State

**October 19**

Child Day-Care Council

**October 20**

† Champion Schools, Governor's Commission on  
† Water Control Board, State

**October 21**

Higher Education for Virginia, State Council of

**October 26**

† Water Control Board, State

**October 27**

† Champion Schools, Governor's Commission on

**November 2**

† Champion Schools, Governor's Commission on

**November 3**

† Housing Development Authority, Virginia

**November 4**

† Professional and Occupational Regulation,  
Department of

**November 7**

Cosmetology, Board for

**November 9**

† Professional and Occupational Regulation,  
Department of

## Calendar of Events

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