

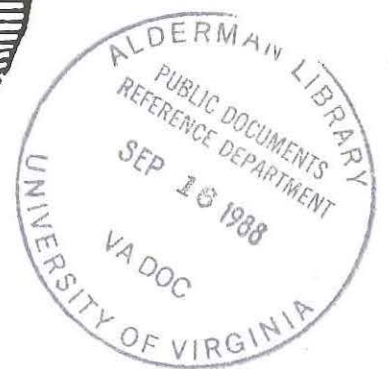
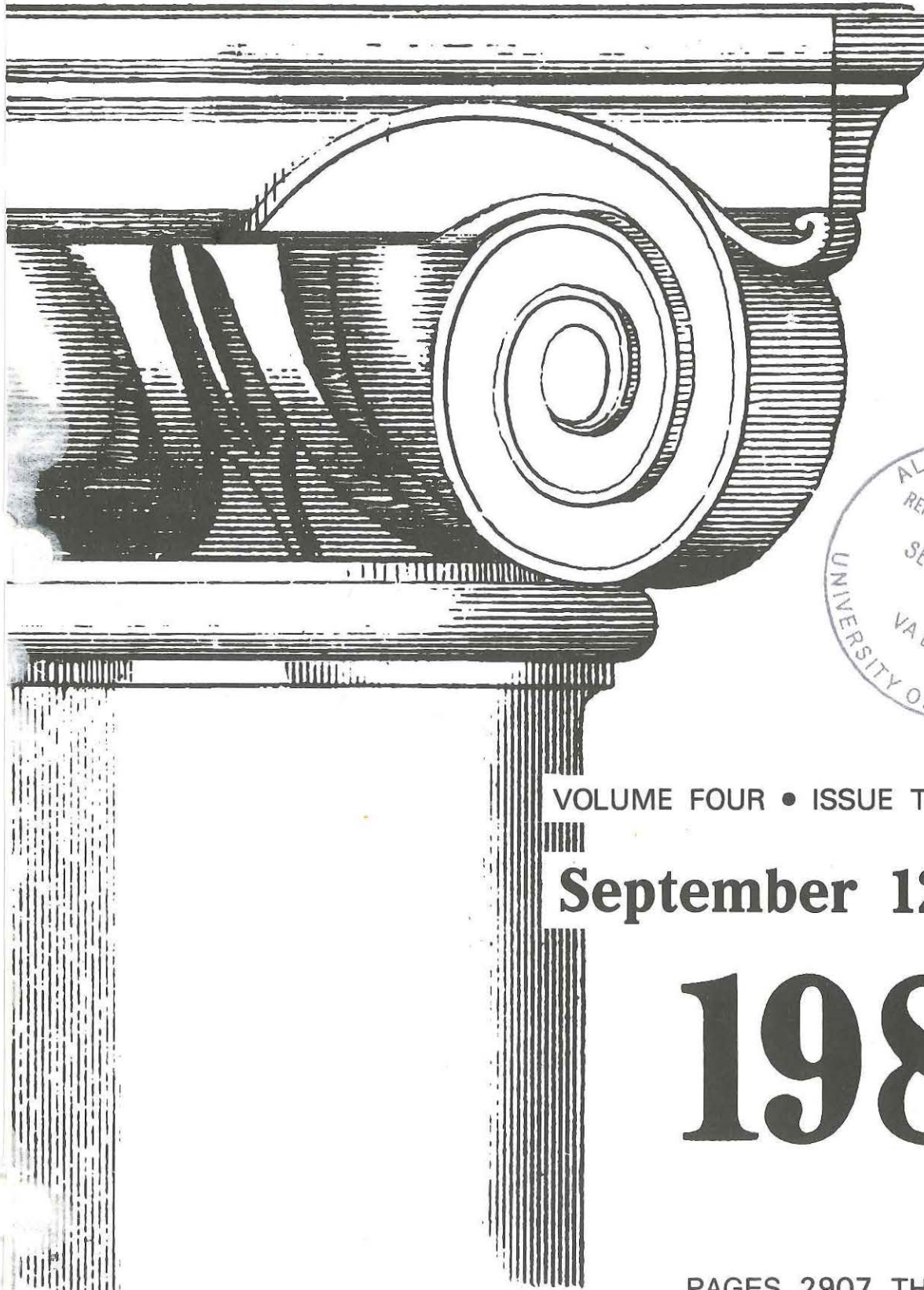
THE VIRGINIA REGISTER

OF REGULATIONS

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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the *Virginia Tax Bulletin* issued monthly by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

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

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

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

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

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

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

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

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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Sept. 21	Oct. 10
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Nov. 16	Dec. 5
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Dec. 28	Jan. 16
Jan. 11	Jan. 30
Jan. 25	Feb. 13
Feb. 8	Feb. 27
Feb. 22	Mar. 13
Mar. 8	Mar. 27
Index 2 - Volume 5	

Mar. 22	Apr. 10
Apr. 5	Apr. 24
Apr. 19	May 8
May 3	May 22
May 17	June 5
May 31	June 19
Index 3 - Volume 5	

June 14	July 3
June 28	July 17
July 12	July 31
July 26	Aug. 14
Aug. 9	Aug. 28
Aug. 23	Sept. 11
Sept. 6	Sept. 25
Final Index - Volume 5	

TABLE OF CONTENTS

PROPOSED REGULATIONS

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES (AND BOARD OF)

Standards for Classification of Real Estate As Devoted to Open Space Use Under the Virginia Land Use Assessment Law. (VR 215-01-01) 2909

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children. (VR 230-40-001) 2914

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children. (VR 270-01-003) 2914

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Single Family Rehabilitation and Energy Conservation Loan Program. (VR 394-01-102) 2915

Multifamily Rehabilitation and Energy Conservation Loan Program. (VR 394-01-103) 2918

Congregate Housing. (VR 394-01-104) 2922

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children. (VR 470-02-01) 2926

VIRGINIA BOARD OF OPTOMETRY

Regulations of the Virginia Board of Optometry. (VR 510-01-1) 2926

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children. (VR 615-29-02) 2930

DEPARTMENT OF TAXATION

Virginia Declaration of Estimated Income Tax by Individuals

Definitions. (VR 630-2-490.1) 2966

Declarations of Estimated Tax. (VR 630-2-490.2) 2967

Failure by Individual to Pay Estimated Tax. (VR 630-2-492) 2969

Fiduciary Estimated Tax

Definitions, Declaration. (VR 630-5-490) 2973

Installment Payments. (VR 630-5-491) 2975

Additions to the Tax. (VR 630-5-492) 2976

FINAL REGULATIONS

CHILD DAY-CARE COUNCIL

Public Participation Guidelines. (VR 175-01-01) 2980

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Game - In General. (VR 325-02-1)2981

DEPARTMENT OF MINES, MINERALS AND ENERGY

Coal Surface Mining Reclamation Regulations - Remining Areas with Pollutational Discharges. (VR 480-03-19) 2981

DEPARTMENT OF MOTOR VEHICLES

Motor Vehicle Dealer Rules and Regulations. (REPEALED) 2996

Overload Permit Regulations. (VR 485-60-8301) 2996

STATE WATER CONTROL BOARD

Nutrient Enriched Waters - Water Quality Standards. (VR 680-21-07.03) 3000

Upper James River Basin Water Quality Management Plan. (VR 680-16-03) 3001

STATE CORPORATION COMMISSION

ADMINISTRATIVE LETTERS

Bureau of Insurance

Withdrawal of Administrative Letter 1987-8. (1988-12) 3003

Copayments for Inpatient Mental and Nervous Disorders. (1988-13) 3003

Adoption of New Mortality Tables Pursuant to the 1982 Amendments to the Standard Nonforfeiture Law - § 38.2-3209 K of the Code of Virginia, as amended. (1988-14) 3003

Table of Contents

GOVERNOR

COMMENTS ON PROPOSED REGULATIONS

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Rules and Regulations - Official Standards for
Enforcement of the Virginia Apples: Grading,
Packing, and Marking Law. (VR 115-05-09) 3005

DEPARTMENT OF HEALTH (STATE BOARD OF)

Virginia Radiation Protection Regulations: Fee
Schedule. (VR 355-20-02) 3005

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent 3006

GENERAL NOTICES

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Public hearing notice concerning regulation entitled:
Rules and Regulations Establishing Testing
Requirements for Feeder Pig Production Herds (VR
115-02-16). 3011

BUREAU OF CAPITAL OUTLAY MANAGEMENT

Procedures for the Receipt and Consideration of
Written Public Comment on Survey Standards for
Buildings Other Than School Buildings Developed
Pursuant to Article 5.2 § 2.1-526.14 of Chapter 32 of
Title 2.1 of the Code of Virginia. 3013

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Notice of the Virginia Outdoors Fund Loan and
Grant Programs. 3013

Notice of Chesapeake Bay Youth Conservation Corps
Program. 3013

COUNCIL ON THE ENVIRONMENT

Notice of a public meeting concerning pesticide
management issues in Virginia. 3014

DEPARTMENT OF HEALTH

Notice of Intent to Solicit Comments on the Vendor
Management Aspects of the Federal Fiscal Year
1987 WIC State Plan. 3014

NOTICE TO STATE AGENCIES

Forms for filing material on date for publication in
the Virginia Register of Regulations 3014

ERRATA

DEPARTMENT OF AIR POLLUTION CONTROL BOARD

Regulation for the Control of Motor Vehicle
Emissions. (VR 120-99-01) 3015

Regulation for Vehicle Emissions Control Program
Analyzer Systems. (VR 120-99-02) 3015

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 3016

LEGISLATIVE MEETINGS

Open Meetings and Public Hearings 3040

CHRONOLOGICAL LIST

Open Meetings 3045
Public Hearings 3048

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES (AND BOARD OF)

Title of Regulation: VR 215-01-01. Standards for Classification of Real Estate As Devoted to Open Space Use Under the Virginia Land Use Assessment Law.

Statutory Authority: §§ 58.1-3230 and 10.1-104 of the Code of Virginia.

Public Hearing Date: September 26, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments clarify and simplify standards used by local tax assessing officials for the classification of real estate devoted to open-space land use. The proposed amendments also establish bodies for the protection and preservation of real estate devoted to open-space land use.

Under the authority of § 58.1-3229 et seq. of the Code of Virginia, the Director of the Department of Conservation and Historic Resources adopts these Standards for Classification of Real Estate As Devoted to Open-Space Use Under the Virginia Land Use Assessment Law to:

1. Encourage the proper use of real estate in order to assure a readily available source of agricultural, horticultural and forest products, and of open space within reach of concentrations of population.
2. Conserve natural resources in forms that will prevent erosion.
3. Protect adequate and safe water supplies.
4. Preserve scenic natural beauties and open spaces.
5. Promote proper land use planning and the orderly development of real estate for the accommodation of an expanding population.
6. Promote a balanced economy and ease pressures which force the conversion of real estate to more intensive uses.

According to the specific authority and responsibility conveyed by §§ 58.1-3230 and 58.1-3240 of the Code of Virginia, the Director of the Department of Conservation and Historic Resources is directed to

provide a statement of the standards which shall be applied uniformly throughout the Commonwealth to determine if real estate is devoted to open-space uses. After holding public hearings, the statement shall be sent to the Commissioner of the Revenue and a duly appointed assessor of each locality adopting an ordinance in compliance with Article 4 of Chapter 32 of Title 58.1, of the Code of Virginia.

VR 215-01-01. Standards for Classification of Real Estate As Devoted to Open Space Use Under the Virginia Land Use Assessment Law.

PART I:

§ 1. General standards.

To qualify as an open-space use, any real estate must meet the requirements of both the General Standards (Part I) this section and the Specific Standards (Part II) specific standards contained in § 2 of these regulations. The general standards are as follows:

A. Consistency with land use plan.

1. The open-space use of the property must be consistent with the land use plan of the county, city, or town required by the Act, which plan shall have been made and adopted officially in accordance with Article 4, Chapter 11, Title 15.1 of the Code of Virginia. To be consistent, the use must be:

1. A qualifying use listed in Part II which is shown on the Land Use Plan as an existing or proposed park, greenbelt, forest preserve, flood plain, conservation area, institution, or similar use specifically or in general terms; or

2. If not shown specifically or in general terms as specified above, it must be a qualifying use listed in Part II and must be located in an area shown broadly on the Land Use Plan for a generally open and low density category of uses, such as Agricultural, Conservation, or Estate, but not Industrial, Commercial, Multi-family, or Residential; or it must be

3. Clearly in agreement with one of the stated conservation or open space goals or standards of the Land Use Plan.

2. A land use consistent with the land use plan means a use that is consistent with areas or land use zones depicted on a map that is part of the land use plan, or that directly supports or is generally consistent with

Proposed Regulations

stated land uses, natural resources conservation or historic preservation objectives, goals or standards of the land use plan.

3. A property that is subject to a recorded perpetual conservation, historic or open-space easement held by any public body, or is part of an agricultural, a forestal or an agricultural and forestal district approved by local government, shall be considered to be consistent with the land use plan.

B. No area of less than 5 acres is eligible under the law except that in any city having a density of population greater than five thousand per square mile, the governing body may by ordinance prescribe that land devoted to open space use consist of a minimum of two acres.

B. Minimum acreage.

1. Except as provided in subdivision B 2 of this section, real estate devoted to open-space use shall consist of a minimum of five acres.

2. If the governing body of any county, city or town has so prescribed by ordinance, real estate devoted to open space shall consist of a minimum of two acres when the real estate is:

a. Adjacent to a scenic river, a scenic highway, a Virginia byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan, also known as the Virginia Outdoors Plan (the Virginia Outdoors Plan can be obtained from the Department of Conservation and Historic Resources at 203 Governor Street, Suite 302, Richmond, Virginia 23219); or

b. Located in a county, city or town having a density of population greater than 5,000 per square mile.

C. Other requirements.

Real estate devoted to open-space use shall be:

1. Within an agricultural, a forestal or an agricultural and forestal district entered into pursuant to Chapter 36 of Title 15.1 of the Code of Virginia;

2. Subject to a recorded perpetual easement that is held by a public body and that promotes the open-space use classification as defined in § 58.1-3230 of the Code of Virginia; or

3. Subject to a recorded commitment entered into by the landowner with the governing body in accordance with § 3 of these regulations.

C. The uses described below in Part II shall each be the principal use of the property, not just incidental to a non-qualifying use. It must be the principal use in both

extent and time.

D. The Open Space Use must be one that is maintained by the property owner.

E. The term "to be provided or preserved for" includes not only land in actual use for a qualifying open space use, but and also land being held in an underdeveloped state for acquisition by a governmental agency for a qualifying open space use.

F. Exceptions for unusual cases may be recommended by the Director of the Commission of Outdoor Recreation in any opinion requested under Sec. 58.1-3233 of the Code.

D. Opinions.

In determining whether a property meets the general and specific standards for open-space use, the local assessing officer may request an opinion from the Director of the Department of Conservation and Historic Resources under the provisions of § 4 of these regulations.

PART II. SPECIFIC STANDARDS.

§ 2. Specific standards.

A. In addition to meeting the foregoing General Standards, a qualifying Open Space must also meet the following Specific Standards. These refer to and are amplifications of the five broad definitions of Open Space Uses contained in the Enabling Act and quoted in the Preface above. The definitions in the Enabling Act are not to be interpreted or applied apart from the Standards which follow, but are further defined, limited, and clarified herein below.

B. Deliberate Identification.

It should be noted that a A qualifying Open Space must be one that is deliberately "provided or preserved for" one or more of the specified purposes. This means set aside, designated, committed, protected, or otherwise clearly identified and constructively maintained for the purpose. Idle, vacant, neglected land would not qualify simply because it is "open."

C. The specific classes of Open Space uses that standards for determining whether real estate will qualify for special taxation under these Standards assessment based on open-space use are as follows. The term "land" will include includes water, submerged land, wetlands, marshes, etc. and similar properties.

1. A. Park or recreation uses.

Lands that are provided or preserved for:

a. 1. Any public, semi-public ; or privately-owned park,

Proposed Regulations

playground ; or ~~other~~ similar recreational area, for public use, or community use, except any use operated with intent for profit.

Examples:

Parks, play areas, athletic fields, botanical gardens, fishing or skating ponds.

Golf clubs, country clubs, swimming clubs, beach clubs, yacht clubs, scout camps.

Fairgrounds.

~~b.~~ 2. Golf courses operated for profit as a public service and having all or most of the park-like characteristics of normally associated with a country club.

~~e.~~ 3. ~~Conditions~~ Buildings shall not cover more than 10% of the site.

~~d.~~ 4. ~~Exclusions~~ Commercial recreational or amusement places , such as driving ranges, miniature golf courses, pony rides, trap shoots, marinas, motor speedways, drag strips, amusement parks ; and the like, shall not qualify.

2. B. Conservation of land or other natural resources.

Lands that are provided or preserved for forest preserves, bird or wildlife sanctuaries, watershed preserves, nature preserves, arboretums, marshes, swamps ; etc. and similar natural areas .

3. C. Floodways.

Lands that are provided or preserved for:

~~a.~~ 1. The passage or containment of waters, including the floodplains or valleys and side slopes of streams that are or may be subject to periodic or occasional overflow, such as floodplains identified by engineering surveys by the U.S. Corps of Engineers or others, or by soil surveys or topographic maps ; and including . Floodways also include adjacent lands that should be reserved as additional channels for future floods due to increased runoffs from urbanizing developments .

~~b.~~ 2. Coastal lowlands , such as bays, estuaries or ocean shores, subject to inundation by storms or high tides (Bays, estuaries, or ocean shores) .

3. Tidal and nontidal wetlands, such as swamps, bogs and marshes.

4. D. Historic or scenic areas.

Lands that are provided or preserved for historic or scenic purposes are:

~~a.~~ 1. On the Virginia Landmarks Register or the National Register of Historic Places or contributing properties in an historic district listed in the Virginia Landmarks Register or the National Register of Historic Places. Information concerning properties on these registers can be obtained from the Department of Conservation and Historic Resources.

~~b.~~ 2. Places Properties protected by scenic or open-space easements ; if not enjoying other tax benefits under the Open Space Land Act .

~~e.~~ 3. Places designated or recommended as "Scenic" by the ~~Commission of Outdoor Recreation Department of Conservation and Historic Resources~~ , the Department of Highways Transportation , the General Assembly ; or other official state agency ; such as along scenic rivers, scenic roads, and elsewhere, subject in each case to a specific area description provided by the designating agency.

~~5.~~ E. Assisting in the shaping of the character, direction ; and timing of community development , or for the public interest .

Lands in urbanizing regions that are officially planned or approved by the local planning commission or governing body to be left in a relatively natural and undeveloped state and that are provided or preserved for the purpose of shaping the city locality into neighborhoods and communities, of identifying their boundaries, or insulating incompatible uses from one another, of directing growth, or of controlling the rate or timing of growth or otherwise serving the public interest as determined by the local governing body . Examples:

Greenbelts, parkways and trailways ,

Stream valley preserves valleys ,

Forest preserves Forests and farmlands,

Hilltops preserves or hillsides preserve ,

Industrial buffers,

Permanent open spaces in cluster subdivisions.

Mountaintops and mountainsides,

Scenic vistas.

PART III.

§ 3. Standards for written commitments by landowners to preserve open-space land use.

The written commitment entered into by landowners for the local governing body to preserve open-space land use, pursuant to subdivision 3 of § 58.1-3233 of the Code of Virginia, shall conform substantially to the following form

Proposed Regulations

of agreement:

OPEN-SPACE USE AGREEMENT

This Agreement, made this date of 19 ... between hereafter called the Owner, and the [County, City or Town] of a political subdivision of the Commonwealth of Virginia, hereinafter called the [County, City or Town], recites and provides as follows:

RECITALS

1. The Owner is the owner of certain real estate, described below, hereinafter called the Property; and

2. The [County, City or Town] is the local governing body having real estate tax jurisdiction over the Property; and

3. The [County, City, or Town] has determined:

A. That it is in the public interest that the Property should be provided or preserved for [Insert one or more of the following uses: park or recreational purposes; conservation of land; conservation of (Insert description of other natural resource), an historic area; a scenic area; assisting in the shaping of the character, direction and timing of community development; or other use which serves the public interest by the preservation of open-space land as provided in the land use plan.]; and

B. That the Property meets the applicable criteria for real estate devoted to open-space use as prescribed in Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1 of the Code of Virginia, and the standards for classifying such real estate prescribed by the Director of the Virginia Department of Conservation and Historic Resources; and

C. That the provisions of this agreement meet the requirements and standards prescribed under § 58.1-3233 of the Code of Virginia for recorded commitments by landowners not to change an open-space use to a nonqualifying use; and

4. The Owner is willing to make a written recorded commitment to preserve and protect the open-space uses of the Property during the term of this agreement in order for the Property to be taxed on the basis of a use assessment and the Owner has submitted an application for such taxation to the assessing officer of the [County, City or Town] pursuant to § 58.1-3234 of the Code of Virginia and [citation of local ordinance]; and

5. The [County, City or Town] is willing to extend the tax for the Property on the basis of a use assessment commencing with the next succeeding tax year and continuing for the term of this agreement, in consideration of the Owner's commitment to preserve and protect the

open-space uses of the property, and on the condition that the Owner's application is satisfactory and that all other requirements of Article 4, Chapter 32, Title 58.1 of the Code of Virginia and [citation of local ordinance] are complied with.

NOW THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms herein contained the parties hereby covenant and agree as follows:

1. This agreement shall apply to all of the following described real estate: [Insert property description]

2. The Owner agrees that during the term of this agreement:

A. There shall be no change in the use or uses of the Property that exist as of the date of this agreement to any use that would not qualify as an open-space use.

B. There shall be no display of billboards, signs or other advertisements on the property, except to (i) state solely the name of the Owner and the address of the Property; (ii) advertise the sale or lease of the Property; (iii) advertise the sale of goods or services produced pursuant to the permitted use of the Property; or (iv) provide warnings. No sign shall exceed four feet by four feet.

C. There shall be no construction, placement or maintenance of any structure on the Property unless such structure is either:

(1) on the Property as of the date of this agreement; or

(2) related to and compatible with the open-space uses of the Property which this agreement is intended to protect or provide for.

D. There shall be no accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.

E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals or other materials which alters the topography of the Property, except as required in the construction of permissible building, structures and features under this agreement.

F. There shall be no construction or placement of fences, screens, hedges, walls or other similar barriers which materially obstruct the public's view of scenic areas of the Property.

G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Owner may:

(1) engage in agricultural, horticultural or

Proposed Regulations

silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia Byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and

(2) remove vegetation which constitutes a safety, a health or an ecological hazard.

* H. There shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.

* I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or underdeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.

J. There shall be no industrial or commercial activities conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities; or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.

K. There shall be no separation or split-off of lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of this agreement only as the same entire parcel that is the subject of this agreement; provided, however, that the Owner may grant to a public body or bodies open-space, conservation or historic preservation easements which apply to all or part of the Property.

3. This agreement shall be effective upon acceptance by the [County, City or Town]; provided, however, that the real estate tax for the Property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Owner for use assessment and taxation in accordance with [citation of applicable local ordinance]. Thereafter, this agreement shall remain in effect for a term of [Insert a period of not less than 4 nor more than 10 consecutive tax years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Owner may otherwise allow, consistent with the provisions of this agreement.

5. The [County, City or Town] shall have the right at all reasonable times to enter the Property to determine whether the Owner is complying with the provisions of this

agreement.

6. Nothing in this agreement shall be construed to create in the public or any member thereof a right to maintain a suit for any damages against the Owner for any violation of this agreement.

7. Nothing in this agreement shall be construed to permit the Owner to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.

8. If any provision of this agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.

9. The provisions of this agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.

10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whenever the sense requires.

11. This agreement may be terminated in the manner provided in § 15.1-1513 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

12. Upon termination of this agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the [County, City or Town] determines otherwise in accordance with applicable law.

13. Upon execution of this agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of, Virginia, at the Owner's expense.

14. NOTICE: WHEN THE OPEN-SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NONQUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE OWNER, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES, SHALL BE SUBJECT TO ROLL-BACK TAXES IN ACCORDANCE WITH § 58.1-3237 OF THE CODE OF VIRGINIA. THE OWNER SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.

* Paragraphs H and I must be included in agreements for properties which are to be provided or preserved for natural areas left in undeveloped states, including floodways. These paragraphs are unnecessary for agreements for other types of land uses, such as for a park or a farm use.

..... (SEAL)
Owner

Proposed Regulations

[Name of City, County, Town]

by
(Acknowledgments)

PART IV

§ 4. Opinions.

In cases of uncertainty, on the part of the local assessing officer, the law authorizes him to the local assessing officer may request an opinion from the Director of the Commission of Outdoor Recreation Department of Conservation and Historic Resources as to whether a particular property meets the criteria for open-space classification. The procedure for obtaining such an opinion is as follows:

A. The local assessing officer shall address a letter to the Director, Commission of Outdoor Recreation Department of Conservation and Historic Resources, 203 Governor St., Suite 302, Richmond, VA 23219, describing the particular use and situation and requesting an opinion as to whether or not it qualifies as an open space for the purpose of use value taxation. Such letter should be accompanied by exhibits such as land use maps, subdivision plats, open-space deeds or easements, applicable agricultural, forestal, historic district or other ordinances, if any, topographic maps, and photographs, sufficient to explain the situation adequately. The director may request additional information if needed.

B. The director may hold a hearing at which the applicant and others may present additional information.

C. The director will issue his opinion as quickly as possible after all necessary information has been received and any hearing completed. An appeal from any opinion which does not comport with the standards set forth herein may be taken as provided by Section 58-760.12 (58.1-3240) § 58.1-3240 of the Code of Virginia (1950) as amended.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: VR 230-40-001. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the

Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes standards to provide children in residential facilities with at least a minimal level of care. The proposed revision is intended to amend and clarify the definition of "Residential Facility for Children" in § 1.1 of the Core Standards. The definition stipulates which facilities are subject to regulation under the Core Standards.

NOTICE: Please refer to the Department of Social Services in the Proposed Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-003. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes standards to provide children in residential facilities with at least a minimal level of care. The proposed revision is intended to amend and clarify the definition of "Residential Facility for Children" in § 1.1 of the Core Standards. The definition stipulates which facilities are subject to regulation under the Core Standards.

NOTICE: Please refer to the Department of Social Services in the Proposed Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The following three regulations are exempted from the Administrative Process Act under the provisions of § 9-6.14:4 B 4 of the Code of Virginia, which excludes agency action relating to grants of state or federal funds or property.

Title of Regulation: VR 394-01-102. Single Family Rehabilitation and Energy Conservation Loan Program.

Statutory Authority: Chapter 9 (§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the fund is to increase the availability of decent and affordable housing for low and moderate Virginia residents. The Single Family Housing Rehabilitation Program provides low interest loans for the rehabilitation of owner occupied or investor owned single family housing units. The purpose of the program is to increase the supply of decent and affordable single family housing for low and moderate income owners and renters.

VR 394-01-102. Single Family Rehabilitation and Energy Conservation Loan Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Accessibility improvement" means an eligible interior or exterior modification made to an eligible property to compensate for a disabled person's reduced mobility or ability to perform necessary tasks in the home.

"Applicant" is a nonprofit, incorporated organization or governmental entity, which has submitted to the state, an application for consideration to become a local administrator of the Single Family Rehabilitation and Energy Conservation Loan Program.

"Application" is the request, on behalf of the applicant, for a loan fund reservation for administration of the Single

Family Rehabilitation and Energy Conservation Loan Program.

"Appraised value" is the value of a home as determined by an independent fee appraiser.

"Area median income" means the median income established by HUD from time to time for various areas of the Commonwealth. State median income means the statewide median income established by the University of Virginia, Center for Public Service.

"Assessed value" is the value of the home as determined by the real estate assessment office of the local government for tax purposes. The applicable assessed value shall be that value which is in effect as of the loan application date.

"Borrower" is a person or family, who has been approved by the state, for funding from the Single Family Housing Rehabilitation and Energy Conservation Loan Program.

"Commitment fee" is a fee of up to \$100 charged by the local administrator to defray the cost of processing the loan. The fee is collected at closing.

"DHCD" means the Department of Housing and Community Development.

"Fund" means the Housing Partnership Revolving Loan Fund.

"General improvements" means improvements made for the purpose of making the home more desirable to live in or to make the home more habitable. These improvements must be permanent and may include additions, alterations, renovations, or repairs to the home. Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for properties of the same general type as the property to be improved.

"Gross income" is the total annual income of all residents of a housing unit, age 18 or older, from all sources and before taxes or withholding.

"HQS" means HUD Section 8 Housing Quality Standard.

"HUD" means the U.S. Department of Housing and Urban Development.

"Individual" is a single person who submits an application pursuant to the program guidelines.

"Loan application" is a request to the local administrator or VHDA on behalf of the borrower to obtain funds for the purpose as defined in the Single Family Rehabilitation and Energy Conservation Loan Program Guidelines.

Proposed Regulations

"Local administrator" is a nonprofit, incorporated organization or governmental entity, with which the Department of Housing and Community Development (DHCD), in its sole discretion, enters into a contract for local administration of the Single Family Rehabilitation Loan Program. Examples of eligible local administrators include, but are not limited to, cities, counties, towns, redevelopment and housing authorities, community based organizations, area agencies on aging, independent nonprofit housing organizations and others.

"Locality" means a city or county.

"Program" means the Single Family Rehabilitation and Energy Conservation Loan Program.

"Servicing fee" is an add on to the loan interest rate of up to 1/2% by the local administrator for the purpose of defraying the cost of administering the loans.

"State" means the Department of Housing and Community Development or such other entity as DHCD shall designate.

"VHDA" means Virginia Housing Development Authority.

PART II. ELIGIBILITY.

§ 2.1. Eligible applicants.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia; or

B. Governmental entities.

§ 2.2. Eligible borrowers.

A. Owner occupied households with total gross income which does not exceed 80% of the area median income as established by HUD or 80% of the state median income as established by the University of Virginia, Center for Public Service, whichever is higher; or

B. The owner of rental property in which the occupants total adjusted gross income does not exceed 80% of the area median income as established by HUD or 80% of the state median income as established by the University of Virginia, Center for Public Service.

C. Must meet program underwriting criteria;

D. Must, if owner occupants have ownership interest in the property; must, if investor owned, be sole owners of the property.

§ 2.3. Eligible properties.

In order to be eligible for rehabilitation under the program, a property must be:

1. Single family owner occupied unit, or a single rental unit, provided it is or will be, after rehabilitation occupied by a household with an income at or below 80% of area median income as established by HUD or 80% of the state median income as established by the University of Virginia, Center for Public Service;

2. An existing unit which does not meet HUD Section 8 Housing Quality Standards (HQS).

§ 2.4. Eligible improvements.

A. Funds must first be used to bring the property up to HUD Section 8 Housing Quality Standards.

B. Energy improvements which exceed HUD Section 8 Housing Quality Standards are encouraged. Eligible energy improvements must be prior approved by the state. The following are examples of eligible improvements:

1. Installation or replacement of storm doors and windows;

2. Caulking/weatherstripping;

3. Roof, floor and wall repair as associated with insulation improvements;

4. Furnace repair.

C. Funds may be used for other general improvements.

D. Luxury improvements are prohibited.

E. Upon completion of the rehabilitation, property must comply with zoning and other local requirements for planned use.

PART III. FUNDING PRIORITY.

§ 3.1. Funding priority.

Special consideration will be given to organizations which set aside 10% of total loan funds to be used to improve housing in need of emergency repair or to alleviate conditions of overcrowding, major code violations such as lack of indoor plumbing, problem wells, etc. Accessibility improvements will also be considered a priority.

PART IV. DISTRIBUTION OF FUNDS.

§ 4.1. Distribution of funds.

A. Urban/rural distribution.

The initial distribution of partnership loan funds within the Commonwealth will provide single family housing

rehabilitation and energy conservation loan funds to both urban and rural localities. The population in the CDBG entitlement localities and the CDBG nonentitlement localities, taken as a percentage of total state population will be used as the basis for determining a reasonable initial statewide distribution of loan funds within the Commonwealth. The Center for Public Service at the University of Virginia estimated that the 1986 population in entitlement localities (central cities and the most urbanized counties) represents approximately 47.9% of the total state population. The urban rural distribution formula for the Housing Partnership Single Family and Energy Conservation Loan Program will be in effect during the initial six months of the program.

This formula is as follows:

- 45% to CDBG Entitlement Localities
- 55% to CDBG Nonentitlement Localities

B. Fund reservation.

1. Loan funds will be made available initially on a competitive basis to eligible applicants.
2. Upon selection, an allocation will be reserved for a six month period to allow time for program start-up.
3. The allocation will be divided into two portions: The nonenergy related rehabilitation portion will be provided from the state's General Fund Appropriation. The energy related rehabilitation portion will be provided from the state's Stripper Oil Well Fund. Local administrators will only be able to use the Stripper Oil Well moneys for eligible energy related improvements as defined in § 2.4 B.
4. Local administrators who have not made significant progress toward loan commitments during the six months may lose all or a portion of their allocation.
5. Local administrators will have 18 months to fully commit their initial allocation. Projects will be reviewed quarterly. Any funds remaining after the competitive awards will be available to applicants on a first come/first serve basis. Eligible applicants for first come/first serve funds include new applicants or previous applicants who have committed 80% of their initial allocation.

C. Maximum amount per application.

The maximum amount available per application for rehabilitation improvements will be \$500,000. The maximum amount per locality for rehabilitation improvements will be \$1 million. This limitation may be waived during the final six months of the program period.

D. Coordination.

DHCD will ensure delivery of the program is coordinated on a local basis. In cases where there is more than one applicant applying to provide loan services to the same population within the same geographic jurisdiction, selection will be based upon the Applicant Evaluation Criteria as defined in § 6.1.

PART V. LOAN TERMS AND CONDITIONS.

§ 5.1. Loan terms and conditions.

A. Maximum loan amount.

1. Owner occupied properties. The maximum loan amount for rehabilitation of owner occupied properties will be \$20,000 per unit.
2. Renter occupied properties. The following schedule of maximum loan amounts shall apply to renter occupied properties:

BEDROOM	MAXIMUM LOAN
Efficiency or 1	\$10,000
2	12,500
3	15,000
4 or more	17,500

B. Interest rate.

The interest rate for loans funded from the General Fund Appropriation must average 4.0%. The minimum interest rate for an individual loan shall be 0%. The maximum shall be 8.0%.

Eligible energy improvements which utilize the Stripper Oil Well Fund shall bear an interest rate of 0%.

C. Term of loan.

The maximum term shall be 15 years for loans funded from the General Appropriation Fund. The eligible energy related improvements funded from Stripper Oil Well Fund shall be deferred for the first four years and shall be forgiven at a rate of 25% per year beginning in the fifth year.

D. Loan underwriting.

Underwriting criteria must at a minimum comply with FHA Title I Property Improvement Loans. The borrower's total long term indebtedness must not exceed 45% of the gross income. Any debt ratio above 45% requires state approval. All applicants must have a satisfactory credit rating.

E. Loan servicing.

Proposed Regulations

The Virginia Housing Development Authority may administer loan closing, disbursement and collect payments for loans under this program. Local administrators may service loans upon approval by the state of servicing procedures. Such approved agents may charge a servicing fee of up to 1/2% and a reasonable commitment fee not to exceed \$100.

F. Loan liability.

Local administrative agents involved in the Single Family Rehabilitation and Energy Conservation Loan Program will not be held liable for the repayment of any loan in the event of default by a borrower.

G. Requirements for securing loans.

1. *General requirements.* The borrower must have an ownership interest and all owners must sign the Deed of Trust. A title opinion and title insurance will be required for loans over \$7,500 unless otherwise approved by the state.

2. *Lien requirements.* A lien will be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the energy related rehabilitation portion of the loan and the amount securing the nonenergy related portion. The nonenergy related portion of the lien shall remain in effect until the loan is fully amortized. The energy related portion of the lien, shall be deferred the first four years as long as program requirements are met. Starting the fifth year, the energy related portion of the lien will be forgiven at a rate of 25% per year, for four years, provided program requirements continue to be met.

The state will accept a subordinate position only to an existing mortgage or where the primary rehabilitation financing is being provided from another source.

H. Loan-to-value ratio.

The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. In general, the loan-to-value ratio shall be 90% although this may be increased up to 100% under special circumstances with state approval. If assessed value is used, the loan-to-value ratio may not exceed 100% of the prerehab assessed value.

I. Sale or transfer restrictions.

A loan may be assumed by a subsequent purchaser that meets the income limits of this program as defined in § 2.2 of the program guidelines. Approval by the state will be required for loans to be assumed.

PART VI. APPLICANT EVALUATION CRITERIA.

§ 6.1. Applicant evaluation criteria.

A. Project need.

The overall need and demand for rehabilitation and energy improvements provided by this program for housing low and moderate persons in each local area.

B. Coordination.

How well the program design incorporates the use of other local community initiatives.

C. Program design.

The extent to which the program design effectively and appropriately addresses the identified local needs and the priorities established in § 3.1. The extent to which the program design is thorough and complete.

D. Outreach methods.

How well the local program outreach effort has been designed in order to identify and attract the target population, especially those with the greatest need.

E. Leveraging.

At least 20% of program funds must be matched with in-kind, cash, or other public or private funds. Higher leveraging ratios will be a factor in ranking proposals. Other Housing Partnership Funds will not be an eligible match for this program.

F. Administrative capacity.

Staff expertise in the areas of outreach, underwriting, cost estimation, inspection, and other aspect of residential rehabilitation programs, and its overall community relations.

* * * * *

Title of Regulation: VR 394-01-103. Multifamily Rehabilitation and Energy Conservation Loan Program.

Statutory Authority: Chapter 9 (§§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the fund is to increase the availability

of decent and affordable housing for low and moderate Virginia residents. The Multifamily Housing Rehabilitation Loan Program provides low interest loans from the Virginia Housing Partnership Fund. This program is available to owners of rental housing. The purpose of the program is to increase the supply and quality of rental housing available for low and moderate income residents.

VR 394-01-103. Multifamily Rehabilitation and Energy Conservation Loan Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Accessibility improvement" means an eligible interior or exterior modification made to an eligible property to compensate for a disabled person's reduced mobility or ability to perform necessary, everyday tasks in the home.

"Applicant" is a nonprofit, incorporated organization or governmental entity which has submitted to the state, an application for consideration to become a local administrator of the Multifamily Housing Rehabilitation and Energy Conservation Loan Program.

"Appraised value" is the value of the home as determined by an independent fee appraiser.

"Area median income" means the median income established by HUD from time to time for various areas of the Commonwealth, or the state median income, means the statewide median income, as established by the University of Virginia Center for Public Services.

"Borrower" is the person(s), family, nonprofit or for-profit organization who has been approved by the state, for funding from the multifamily rehabilitation and energy conservation loan program.

"DHCD" means the Department of Housing and Community Development.

"Fund" means the Housing Partnership Revolving Loan Fund.

"General improvements" means improvements made for the purpose of making housing more desirable to live in or to make the home more habitable. These improvements must be permanent and may include additions, alterations, renovations, or repairs to the home. Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for properties of the same general type as the property to be improved.

"Gross income" is the total income of all residents or a housing unit, age 18 or older, from all sources and before taxes or withholding.

"HQS" means HUD Section 8 Housing Quality Standard.

"HUD" means the Department of Housing and Urban Development.

"Loan application" is to request to a local administrator or VHDA, by the borrowers, to obtain funding for purposes as defined in the Multifamily Rehabilitation and Energy Conservation Loan Program Guidelines.

"Local administrator" is a nonprofit, incorporated organization or governmental entity, with which the Department of Housing and Community Development, in its sole discretion, enters into a contract for local administration of the Multifamily Rehabilitation Loan Program. Examples of eligible local administrators include but are not limited to cities, counties, towns, redevelopment and housing authorities, community action agencies, area agencies on aging, independent nonprofit housing organizations and others.

"Locality" means a city or county.

"Program" is the Multifamily Housing Rehabilitation and Energy Conservation Loan Program.

"Project sponsor" is a nonprofit, for-profit or governmental entity seeking to obtain funds for the acquisition and/or rehabilitation of a specific multifamily structure in accordance with the program guidelines.

"Servicing fee" is an addition to the loan interest rate of up to 1/2% by the local administrator for the purpose of defraying the cost of servicing the loan.

"State" means the Department of Housing and Community Development or other entity designated by the department to act on its behalf.

"VHDA" means Virginia Housing Development Authority.

PART II. ELIGIBILITY.

§ 2.1. Eligible local administrators.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia; or

B. Governmental entities.

§ 2.2. Eligible project sponsors.

A. Year I - 1989-90.

Proposed Regulations

1. Nonprofit organizations; incorporated under the laws of the Commonwealth of Virginia; or

2. Governmental entities.

B. Year II - 1990-91.

1. Those defined in § 2.2 A;

2. Private, for-profit corporations;

3. Individual investors.

§ 2.3. Eligible activities.

Loan funds may be used to rehabilitate or to acquire and rehabilitate existing multifamily housing.

A. After acquisition, funds must first be used to bring the property up to HUD Section 8 Housing Quality Standard (HQS).

B. Energy improvements which exceed HUD Section 8 Housing Quality Standards are encouraged. Eligible energy improvements must be prior approved by the state. The following are examples of eligible energy improvements:

1. Installation or replacement of storm doors and windows;

2. Caulking/weatherstripping;

3. Roof, floor and wall repair as associated with insulation improvements;

4. Furnace repair.

C. Funds may also be used for other general improvements.

D. Luxury improvements are prohibited.

E. Upon completion of the rehabilitation, the property must comply with zoning and other local requirements for planned use.

§ 2.4. Eligible properties.

A. Existing structures with two or more units.

B. To qualify as a rehabilitation project, 75% of the exterior walls must be retained.

C. Conversion of commercial or institutional properties to residential use is permitted as long as the property is in conformance with zoning and other local requirements for multifamily use upon completion of the project.

D. Properties must not meet HUD Section 8 Housing Quality Standards (HQS) prior to rehabilitation, unless otherwise approved by the state.

PART III. TARGET POPULATION.

§ 3.1. Target population.

The target population for occupancy of multifamily housing sponsored with Housing Partnership Funds will be low and moderate income persons and families. A minimum percentage of the units must be occupied by these persons for the entire term of the loan. The project sponsor must select one of three options at the time of application and comply with it for the term of the loan:

Option 1: A minimum of 20% of the units be reserved for persons with incomes at 50% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service whichever is higher.

Option 2: A minimum of 40% of the units be reserved for persons within incomes at 60% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 3: A minimum of 80% of the units be reserved for persons within incomes at 80% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service whichever is higher.

PART IV. DISTRIBUTION OF FUNDS.

§ 4.1. Distribution of funds.

A. Dollar limitation per locality.

During the first year (1988-89) each locality will be limited to a maximum of \$500,000 in Multifamily Rehabilitation Loan Funds. During the second year (1989-90) there will be a limitation of \$1 million per project and \$2 million per locality. This limitation may be waived if no other approvable applications have been submitted.

B. Fund reservation for local administrators.

1. Loan funds will be made available initially on a competitive basis to eligible local administrators.

2. Upon selection, an allocation will be reserved for a six-month period to allow time for program start-up.

3. The allocation will be divided into two portions: The nonenergy related rehabilitation portion will be provided from the state's General Fund Appropriation. The energy related rehabilitation portion will be

provided from the state's Stripper Oil Well Fund. Local administrators will only be able to use the Stripper Oil Well moneys for eligible energy related improvements as defined in § 2.2.

4. Local administrators will have 18 months to fully commit their initial allocation. Projects will be reviewed quarterly.

5. Any funds remaining after the competitive awards may be available to applicants on a first come/first serve basis. Eligible applicants for first come/first serve funds include new applicants or previous applicants who have committed 80% of their initial allocation.

C. Fund reservation for project sponsor.

1. Loan funds will be made available initially on a competitive basis to eligible project sponsors.

2. Upon selection, a program loan reservations will be made to a project sponsor for up to six months. This will allow time to complete project development activities including arranging for other financing and assistance from other local, state or federal housing programs. Extensions may be granted by the state, if appropriate, but under no circumstances to exceed six additional months.

3. A project sponsor's allocation will be divided into two portions: The nonenergy related rehabilitation will be provided from the state's General Fund Appropriation. The energy related rehabilitation portion will be provided from the state's Stripper Oil Well Fund.

D. Per unit limitation.

The limitation on the loan amount per unit is based upon unit size. The following per unit limitations will apply:

Bedroom Size	Dollar Loan Limitation
Efficiency or 1	\$10,000
2	12,500
3	15,000
4 or more	17,500

**PART V.
LOAN TERMS AND CONDITIONS.**

§ 5.1. Loan terms and conditions.

A. Interest rate.

Statewide program. The target interest rate for loans originated and serviced by VHDA or local administrators and funded from the General Fund Appropriation is 6.0%. Loans may be made at rates as low as 2.0% and as high as 8.0%, dependent upon the needs of the project.

Loans for eligible energy improvements which are funded from the Stripper Oil Well Fund shall bear an interest rate of 0%.

B. Term.

The maximum term will be 15 years for loans funded from the General Appropriation Fund.

The energy related portion of the loan, if funded from the Stripper Oil Well Fund, shall be deferred for the first four years and shall be forgiven at a rate of 25% per year beginning in the fifth year. Deferrals of principal payments or of both principal and interest payments may be allowed for up to five years. An alternative deferral technique allowing a delayed amortization of the loan may also be permitted. The loan underwriter will determine the feasibility of any payment deferral or amortization deferral for each project. The use of such options may require higher interest rates to be paid during the loan repayment period.

C. Instruments for loan security.

1. General requirements. The borrower(s) must be the sole owner(s) of the property. A title opinion and title insurance will be required for all loans unless otherwise approved by the state.

2. Lien requirements. A lien will be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the energy related rehabilitation portion of the loan and the amount securing the nonenergy related portion of the loan. The nonenergy related portion shall remain in effect until the loan is amortized. Starting the fifth year, the energy related portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met.

The state will accept a subordinate position only to an existing mortgage or where the primary rehabilitation financing is being provided from another source.

D. Loan underwriting criteria.

Other underwriting criteria which will apply to these loans will be established by VHDA. These will include an evaluation of the locational amenities, the experience and credit rating of the sponsors and contractors, architectural and engineering studies, site topography, financial risks and other considerations. Each project will be evaluated to assess the potential cash flow available to pay debt service and operating expenses.

Proposed Regulations

E. Loan servicing.

VHDA will close the loans, conduct inspections, disburse proceeds, service the loans and provide ongoing management oversight. Local administrators may service loans upon approval by the state of servicing procedures. Such approved agents may charge a servicing fee of up to 1/2% and a reasonable commitment fee.

F. Loan-to-value ratio.

The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. A loan-to-value ratio of up to 100% will be considered for loans to nonprofit housing sponsors and up to 90% for other sponsors. The state may permit the ratio to exceed 100% under special circumstances to be considered on a case by case basis.

G. Sale or transfer restrictions.

Loans made under this program will be assumable as long as the property use, income requirements, occupancy levels, housing conditions and other state requirements are maintained for the term of the loan. An annual review will be made to assure project compliance. Approval by the state will be required for loans to be assumed.

H. Prepayment of loan.

Prepayment of a loan under this program will be prohibited unless approved by the state.

I. Loan liability.

Organizations involved in the underwriting and approval of program loans will not be held liable to the state for repayment of any loan in the event of default by a project.

PART VI. DISPLACEMENT.

§ 6.1. Displacement.

Projects which result in no or minimal displacement are encouraged. Where displacement is unavoidable, a sponsor's willingness and ability to assist current tenants in finding alternative housing both temporarily during rehabilitation and permanently will be considered in the selection of projects. A project which causes no displacement will be given the highest priority. Other projects will be required to include a description of the assistance (including counseling and reimbursement) to be given to displaced persons. Projects providing a greater level of assistance will be given higher priorities for loans.

PART VII. EVALUATION CRITERIA.

§ 7.1. Evaluation criteria.

Due to the limited funds available and the expected high demand for such loans, a competitive system will be established to determine which projects will receive loans. Criteria for evaluating and ranking projects are described below:

A. Local need, demand and impact.

The need and demand for affordable multifamily housing for low and moderate income persons in each local area will be used as a basis for determining the award of housing loan funds. A local housing market analysis must be provided and will be used to determine demand for such facilities and to indicate the impact on the community of the proposed project.

B. Income level served.

Projects which serve a higher proportion of lower income households than the minimum required in § 3.1 shall be given a higher priority.

C. Program design.

For eligible organizations applying to become local administrators, the extent to which the program design effectively and appropriately addresses the identified local needs and the priorities. Also, the extent to which the program design is thorough and complete.

D. Leveraging.

The extent to which other federal, local or private below market financing or other housing assistance is included in the project will be a significant factor in evaluating proposals.

E. Family housing.

Projects which provide a greater proportion of units with two or more bedrooms shall be given a higher priority.

F. Displacement.

As described in § 6.1 the extent to which a project causes displacement, and the displacement assistance provided by the sponsor shall be a factor in ranking proposals.

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Title of Regulation: VR 394-01-104. Congregate Housing.

Statutory Authority: Chapter 9 (§§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

VR 394-01-104. Congregate Housing.

PART I. PURPOSE OF THE PROGRAM.

§ 1.1. Purpose of the program.

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the fund is to create and increase the availability of quality housing for low and moderate Virginia residents. The primary purpose of the Congregate Housing and Energy Conservation Loan Rehabilitation Program will be to provide decent, affordable housing opportunities and to expand the number of congregate housing available for the elderly, the mentally disabled and the physically disabled throughout the Commonwealth of Virginia.

PART II. DEFINITIONS.

§ 2.1. Definitions.

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

"Accessibility improvement" means an interior or exterior modification made to an eligible property to compensate for a disabled person's reduced mobility or ability to perform necessary tasks in the home.

"Applicant" is a nonprofit or for-profit corporation or governmental entity, which has submitted to the state, an application for funding from the Congregate Housing Rehabilitation Program according to the program guidelines.

"Application" is the request, on behalf of the applicant, for funding from the Congregate Housing Rehabilitation Program.

"Appraised value" is the value of the facility as determined by an independent fee appraiser.

"Area median income" means the median income established by the HUD from time to time for various areas of the Commonwealth, or the state median income means the statewide median income as established by the University of Virginia Center for Public Service.

"Assessed value" is the value of the home as determined by the real estate assessment office of the local government body for tax purposes. The applicable assessed value shall be that value which is in effect as of the loan application date.

"Borrower" is the for-profit or nonprofit corporation or

governmental entity eligible to receive funding from the Congregate Housing Program.

"DHCD" means the Department of Housing and Community Development.

"Fund" means the Housing Partnership Revolving Loan Fund.

"General improvements" means improvements made for the purpose of making housing more desirable to live in or to make the home more habitable. These improvements must be permanent and may include additions, alterations, renovations, or repairs to the home. Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for the properties of the same general type as the property to be improved.

Gross income" is the total annual income of all residents of a housing unit, from all sources and before taxes or withholding.

"HQS" means the HUD Section 8 Housing Quality Standard.

"HUD" means the Department of Housing and Urban Development.

"Loan application" means the request to the state on behalf of the borrower to obtain funds for the purpose as defined in the Congregate Housing Program Guidelines.

"Loan application date" is the date on which a completed application is received by the State.

"Locality" means a city or county.

"Program" means the Congregate Housing Program.

"State" means the Department of Housing and Community Development or such other entity as DHCD shall designate.

"VHDA" means the Virginia Housing Development Authority.

PART III. ELIGIBILITY.

§ 3.1. Eligible applicants.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia;

B. Public entities or;

C. For-profit corporations.

§ 3.2. Eligible properties.

Proposed Regulations

Eligible properties shall:

1. Contain fewer than 30 units;
2. Provide a central food preparation and eating area even if individual units have kitchen facilities.

§ 3.3. Eligible use of loan funds.

Loan funds may be used for the residential living portion of any project and for other facilities which are an integral part of the entire congregate housing facility. Examples of such facilities include clinics, cafeterias and recreational areas that are part of a total residential project. The type of construction activities which are eligible include the following:

A. Purchase/Rehabilitation.

Loan funds may be used to rehabilitate or acquire and rehabilitate existing facilities to appropriately serve the needs of elderly or disabled persons.

B. Rehabilitation.

1. Funds shall be used to bring the property up to the applicable Uniform Statewide Building Code.
2. Energy improvements which exceed the Uniform Statewide Building Code are encouraged. Such improvements should comply and be approved according to special guidelines established by the state.
3. Remaining funds may be used for general improvements.
4. Luxury improvements are prohibited.
5. Upon completion of the rehabilitation the property must comply with zoning and other local requirements for planned use.

C. New construction.

Loan funds may also be used for the construction of new congregate housing. Stripper Oil Well funds will not be used for energy improvements for any project involving new construction.

PART IV. TARGET POPULATION.

§ 4.1. Target populations.

A. Client groups.

The primary target groups to benefit from loans made under this program will be elderly, mentally disabled and physically disabled persons. During the first program year, the state will endeavor to fund at least one residential

project to serve each of these three groups.

B. Income requirements.

Loans made under this program will be used only to provide residential facilities for persons that cannot otherwise afford decent housing in the private market. A minimum percentage of the units must be occupied by these persons for the entire term of the loan. The sponsor must select one of three options at the time of application and comply with it for the term of the loan:

Option 1: A minimum of 40% of the units be reserved and occupied by persons with incomes at 40% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 2: A minimum of 50% of the units be reserved and occupied by persons with incomes at 50% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 3: A minimum of 60% of the units are reserved and occupied by persons with income of 60% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

PART V. PROJECT AUTHORIZATION.

§ 5.1. Maximum project authorization.

A. Maximum dollar amount.

The maximum program loan for developing an individual congregate housing facility is \$250,000.

B. Time period of loan commitment.

Congregate Housing Program loan reservations will be made to project sponsors for an initial six-month period. This will allow time to complete project development activities including arranging for other financing and assistance from other local, state or federal housing programs. Extensions may be granted by the state, if applicable, but under no circumstances to extend six additional months.

PART VI. LOAN TERMS AND CONDITIONS.

§ 6.1. Loan terms and conditions.

A. Interest rate.

The interest rate will be fixed at 2.0%, except that the eligible energy related portion of the loan, if funded from

stripper well proceeds, shall have an interest rate of 0%.

B. Term.

The loan term will be 20 years, except that the eligible energy related portion of the loan shall have a term of eight years. Principal payments are deferred and the loan shall be forgiven at the rate of 25% per year beginning in the fifth year.

C. Instrument for securing loan.

1. *General provisions.* The borrower(s) shall be the sole owner(s) of the property. A title opinion and title insurance will be required for all loans.

2. *Lien requirements.* A lien will be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the energy related rehabilitation portion of the loan, and the amount securing the nonenergy related portion of the loan. The nonenergy related portion shall remain in effect until the loan is fully amortized. The energy related portion of the lien shall be deferred the first four years of the program as long as program requirements are met. Starting the fifth year, the energy related portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met. The state will accept a subordinate position only to an existing mortgage or where the primary rehabilitation financing is being provided from another source.

D. Loan underwriting criteria.

Other underwriting criteria which will apply to these loans will be established by VHDA. These will include an evaluation of the locational amenities, the experience and credit rating of the sponsors and contractors, architectural and engineering studies, site topography, financial risks and other considerations. Each project will be evaluated to assess its potential cash flow to pay debt service and operating expenses. Services which will be available to residents must be clearly defined and service providers must be identified. The state reserves the right to have outside review of service proposals from appropriate community service agencies.

E. Loan servicing.

VHDA will close the loans, conduct inspections, disburse proceeds, service the loans and provide ongoing management oversight.

F. Loan to value ratio.

Congregate housing for elderly and disabled persons may require additional facilities and amenities not ordinarily found in conventional housing. The cost or value of the installation of such facilities may not, therefore, be reflected in the market value of the housing.

In order to encourage the development of properly designed and equipped congregate housing, a loan-to-value ratio of up to 100% will be allowed for projects developed by nonprofit sponsors and up to 90% for other sponsors. Exceptions may be considered by the state under extraordinary circumstances and on a case by case basis.

G. Sale or transfer restrictions.

Loans made under this program shall be assumable as long as the property use, income and occupancy restrictions, housing conditions and other state requirements are maintained.

H. Prepayment of loans.

Prepayment of loans under this program will be prohibited unless approved by the state.

PART VII. EVALUATION CRITERIA.

§ 7.1. Evaluation criteria.

Due to the limited funds available and the expected high demand for these loans, a competitive system will be used in deciding which projects will receive loans. Criteria to rank the applications are described below:

A. Local need, demand and impact.

The need and demand for affordable housing facilities for low income elderly and disabled persons in each local area will be used as a basis for determining the award of housing loan funds. A local housing market analysis must be provided and will be used to determine demand for such facilities and to indicate the impact on the community for the proposed project.

B. Income level served.

Projects which serve a higher proportion of lower income households than the minimum required in § 4.1 shall be given higher priority.

C. Service design.

Consideration will be given to projects which provide additional services that will meet the special needs of residents. A proposed home for adults will have to meet governmental licensing requirements, while a facility for mentally disabled will need to be approved by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

D. Leveraging.

The extent to which other federal, local or private below market financing or other housing assistance is included in the project will be a significant factor for evaluating proposals.

Proposed Regulations

E. Target group served.

The state shall endeavor to fund at least one residential facility for each of the three target populations during the first program year.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

Title of Regulation: VR 470-02-01. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes standards to provide children in residential facilities with at least a minimal level of care. The proposed revision is intended to amend and clarify the definition of "Residential Facility for Children" in § 1.1 of the Core Standards. The definition stipulates which facilities are subject to regulation under the Core Standards.

NOTICE: Please refer to the Department of Social Services in the Proposed Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

VIRGINIA BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Statutory Authority: § 54-376 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

The proposed regulations name the basic procedures to be performed during eye examinations by

optometrists, and make it unprofessional conduct, to fail to perform or to record the performance of those procedures.

VR 510-01-1. Regulations of the Virginia Board of Optometry.

PART I. GENERAL PROVISIONS.

§ 1.1. Public participation guidelines.

A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents as they become available.

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

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may have their name added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation, in the formation or promulgation of regulations. Those on the list will be provided all information stated in subsection A of this section. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice of intent, an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation and will address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

D. Information proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to

their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceeding may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

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

F. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.

§ 1.2. Applicants.

A. The applicant, in order to be qualified to be examined by the board for licensure to practice optometry in the Commonwealth, shall:

1. Be a graduate of a school of optometry approved by the Council on Optometric Education; have the registrar of the school provide an official transcript to the board;
2. File at least 30 days prior to the date of examination, on a form supplied by the board, a completed application which shall have affixed securely in the space provided, one recent passport-type photograph of himself, not less than 2 1/2 by 2 1/2 inches in size;
3. Submit an official report from the National Board of Examiners in Optometry of the scores received on all parts of the examination of the National Board of Examiners in Optometry.
4. Submit the prescribed examination fee;

B. If any applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If the applicant withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded. If an applicant is unsuccessful in passing the examination, the applicant shall receive upon request a refund of the licensure fee.

§ 1.3. Fees.

The following fees are required:

Examination fee	\$150
Initial Licensure Fee	
First Examination after Renewal	\$150
Second Examination after Renewal	\$75
Examination fee, certification to use diagnostic pharmaceutical agents	\$100
Licensure fee (renewed annually)	\$150
Late fee	\$100
Administrative Fee	\$25
Professional Designation Application Fee	\$200
Biennial Professional Designation Registration Fee	\$100/location
Reinstatement fee	\$400

PART II. EXAMINATIONS.

§ 2.1. Examinations.

A. For the purpose of § 54-380 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure. In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall successfully complete a practical examination administered by the Virginia Board of Optometry.

B. A candidate may take or retake the practical examination upon payment of the prescribed fee. A candidate failing the practical examination shall retake the entire examination, except that a candidate who fails one section may retake the failed portion at the next administration of the examination only, upon payment of the examination fee. Otherwise the full examination shall be retaken.

PART III. UNPROFESSIONAL CONDUCT.

§ 3.1. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to:

1. Fail to use in connection with the optometrist's name wherever it appears relating to the practice of

Proposed Regulations

optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."

2. Practice optometry under a name other than the optometrist's own name, except to the extent authorized by § 4.1, "Professional Designations."

3. Fail to maintain records on each patient for not less than five years from the date of the most recent service rendered. Such records shall include, but not be limited to (i) all the examinations made of the patient; (ii) the results of such examinations; and (iii) all treatments and drugs used or procedures performed on, all materials dispensed to, and all prescriptions written for, the patient, and the name of the attending optometrist.

a. A complete record of all the examinations made of a patient shall include but not be limited to:

(1) During a routine, comprehensive eye examination:

(a) Care history;

(b) Acuity measure;

(c) Internal tissue health evaluation;

(d) External tissue health evaluation;

(e) Refraction;

(f) A recommendation and directions to the patients, including prescription; and

(g) Name of attending optometrist.

(2) During a contact lens examination:

(a) The requirements of subdivision 3 a (1) of this section;

(b) Assessment of corneal curvature;

(c) Acuity through the lens;

(d) Directions for the care and handling of lenses and an explanation of the implications of contact lenses with regard to eye health and vision; and

(e) Name of attending optometrist.

(3) During a follow-up contact lens examination:

(a) Assessment of fit of lens;

(b) Acuity through the lens;

(c) Such further instructions as in § 3.1 a (2)(d)

above as necessary for the individual patient; and

(d) Name of attending O.D.

4. Fail to include the following information on a prescription for ophthalmic goods:

a. The printed name of the prescribing optometrist;

b. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;

c. The name of the patient;

d. The signature of the optometrist;

e. The date of the examination, and, if appropriate, expiration date of the prescription;

f. Any special instructions.

5. Refuse to provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid.

6. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled within 30 days after the last visit.

7. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.

8. Administer any diagnostic pharmaceutical agents, specified in § 54-386.2 of the Code of Virginia, without certification of the Board of Optometry to use such agent.

9. Fail to post conspicuously in the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location.

10. Violate any provision of these regulations pertaining to professional designations.

11. Fail to maintain patient records, perform procedures or make recommendations during routine and nonroutine eye and contact lens examinations as necessary to protect the health and welfare of the patient.

PART IV.

PROFESSIONAL DESIGNATIONS.

§ 4.1. Professional designations.

A. An optometrist may practice in an office that uses any of the following professional designations, provided that the name of at least one licensed optometrist, associated with the office appears in conjunction with any advertisement or other use of that description:

1. The full name of the optometrist as it appears on his license and renewal certificate; or
2. The name of an optometrist who employs him and practices in the same office; or
3. A partnership name composed of some or all names of optometrists practicing in the same office; or
4. A fictitious name, if the conditions set forth in subsection B. of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a fictitious name for the optometric office in which they conduct their practices, provided the following conditions are met:

1. Each fictitious name shall be registered with the board by a licensed optometrist, who must be associated with the optometric office and who shall assume responsibility for compliance with this section. Each fictitious name shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.
2. No licensed optometrist may, at any time, register to practice optometry under more than one fictitious name.
3. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the following:
 - a. The name of at least one licensed optometrist associated with the optometric office who shall, in conjunction with the licensed optometrists referred to in paragraph 1 of this subsection, assume responsibility for the advertisement:
 - b. Lettering in which the name of the optometrist appears of at least half the size of the lettering in which the fictitious name appears.
4. No fictitious name may be used that does not contain the word "optometry" or reasonably recognizable derivatives thereof.
5. In the entrance or reception area of the optometric

office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.

6. The names of all optometrists who practice under the fictitious name shall be maintained in the records of the optometric office for five years following their departure from the practice.

7. Subsequent to the administration of any optometric service, the optometrist of record shall place his name in the record of the patient following a description of the service rendered. If the treatment is rendered by an optometrist other than the optometrist of record, the name of that optometrist shall be placed in the record of the patient.

8. The name of the licensed optometrist providing care shall appear on the initial statement of charges and on the receipts given to patients.

9. No fictitious name may be used which contains the name of an inactive, retired, removed, or deceased optometrist, except that for a period of no more than one year from the date of succession to a practice, an optometrist may list the name of the inactive, retired, removed, or deceased optometrist, so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

PART V. RENEWAL OF LICENSURE; REINSTATEMENT.

§ 5.1. Renewal fees.

A. Every person authorized by the board to practice optometry shall, on or before October 31 of every year, pay to the executive director of the Board of Optometry the prescribed annual licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address given.

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of their license. The license of every person who does not return the completed form and fee by October 31 of each year shall automatically become invalid. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. The board shall reinstate the lapsed license, provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid the prescribed late fees, all unpaid renewal fees from the

Proposed Regulations

time the license lapsed, and the prescribed reinstatement fee.

D. The board may, in its discretion, require an applicant who cannot satisfy the requirement of subsection C of § 5.1 of these regulations, to pass all parts of the examination of the National Board of Examiners in Optometry or the state practical examination, or both.

PART VI. CONTINUING EDUCATION.

§ 6.1. Continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 12 hours (24 hours for the October 31, 1988, renewal) of continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A. of this section, no later than the last day of each license period.

C. The board will review courses for acceptability for purposes of continuing education requirements if the following information is provided:

1. The title of the course;
2. The sponsoring organization(s);
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. An outline of the course's content;
6. The length of the course in clock hours;
7. The method of certification of attendance; and
8. Number of credit hours requested.

D. The titles of all courses approved by the board will be kept on a list maintained by the board. All courses approved by the board shall pertain directly to the care of the patient.

Courses excluded by the board shall include:

1. Courses which are designed to promote the sale of specific instruments or products;
2. Courses offering instruction on augmenting income; and
3. Courses which are neither advertised nor in fact available to all optometrists or any courses for which there is no independent assurance that no part of the educational session is devoted to the promotion of

specific instruments, products, or marketing philosophies.

E. When the annual license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. In the event such form, with proper substantiation, is not filed by October 31, the executive director of the board shall notify the licensee that their license has lapsed. The board may reinstate the license, upon showing of disability or undue hardship, or upon showing that the licensee has complied with the requirements of subsection B of this section.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179, 63.1-196 and 63.1-217 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification, or approval of public and private residential facilities for children.

The regulation establishes standards to provide children in residential facilities with at least a minimal level of care. The proposed revision is intended to amend and clarify the definition of "Residential Facility for Children" in § 1.1 of the Core Standards. The definition stipulates which facilities are subject to regulation under the Core Standards.

VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

TABLE OF CONTENTS

PART I - INTRODUCTION

- Article 1. Definitions
- Article 2. Legal Base
- Article 3. Interdepartmental Agreement
- Article 4. General Licensure/Certification Requirements
- Article 5. The License/Certificate

- Article 6. Types of Licenses/Certificates
- Article 7. Preapplication Consultation Services
- Article 8. The Initial Application
- Article 9. The Investigation
- Article 10. Allowable Variance
- Article 11. Decision Regarding Licensure/Certification
- Article 12. Issuance of License, Certificate or Approval
- Article 13. Intent to Deny a License, Certificate or Approval
- Article 14. Renewal of License/Certificate
- Article 15. Early Compliance
- Article 16. Situations Requiring a New Application
- Article 17. Modification of License/Certificate
- Article 18. Visitation of Facilities
- Article 19. Investigation of Complaints and Allegations
- Article 20. Revocation of License/Certificate

PART II - ORGANIZATION AND ADMINISTRATION

- Article 1. Governing Body
- Article 2. Responsibilities of the Licensee
- Article 3. Fiscal Accountability
- Article 4. Internal Operating Procedures
- Article 5. Insurance
- Article 6. Bonding
- Article 7. Fund Raising
- Article 8. Relationship to Licensing Authority
- Article 9. Participation of Children in Research
- Article 10. Children's Records
- Article 11. Confidentiality of Children's Records
- Article 12. Storage of Confidential Records
- Article 13. Disposition of Children's Records
- Article 14. Residential Facilities for Children Serving Persons Over the Age of 17 Years

PART III - PERSONNEL

- Article 1. Health Information
- Article 2. Initial Tuberculosis Examination and Report
- Article 3. Subsequent Evaluations for Tuberculosis
- Article 4. Physical or Mental Health of Personnel
- Article 5. Qualifications
- Article 6. Job Descriptions
- Article 7. Written Personnel Policies and Procedures
- Article 8. Personnel Records
- Article 9. Staff Development
- Article 10. Staff Supervision of Children
- Article 11. The Chief Administrative Officer
- Article 12. The Program Director
- Article 13. Child and Family Service Worker(s)
- Article 14. Child Care Staff
- Article 15. Relief Staff
- Article 16. Medical Staff
- Article 17. Recreation Staff
- Article 18. Volunteers and Students Receiving Professional Training
- Article 19. Support Functions

PART IV - RESIDENTIAL ENVIRONMENT

- Article 1. Location
- Article 2. Buildings, Inspections, and Building Plans
- Article 3. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings
- Article 4. Heating Systems, Ventilation and Cooling Systems
- Article 5. Lighting
- Article 6. Plumbing and Toilet Facilities
- Article 7. Facilities and Equipment for Residents with Special Toileting Needs
- Article 8. Sleeping Areas
- Article 9. Privacy for Children
- Article 10. Living Rooms/Indoor Recreation Space
- Article 11. Study Space
- Article 12. Kitchen and Dining Areas
- Article 13. Laundry Areas
- Article 14. Storage
- Article 15. Staff Quarters
- Article 16. Office Space
- Article 17. Buildings and Grounds
- Article 18. Equipment and Furnishings
- Article 19. Housekeeping and Maintenance
- Article 20. Farm and Domestic Animals
- Article 21. Primitive Campsites
- Article 22. Water in Primitive Campsites
- Article 23. Food Service Sanitation in Primitive Campsites
- Article 24. Toilet Facilities in Primitive Campsites
- Article 25. Heating in Primitive Campsites
- Article 26. Sleeping Areas and Equipment in Primitive Campsites
- Article 27. Clothing in Primitive Campsites
- Article 28. Fire Prevention in Primitive Campsites

PART V - PROGRAMS AND SERVICES

- Article 1. Criteria for Admission
- Article 2. Admission of Blind or Visually Impaired Children
- Article 3. Interstate Compact on the Placement of Children
- Article 4. Documented Study of the Children
- Article 5. Preplacement Activities Documentation
- Article 6. Authority to Accept Children
- Article 7. Written Placement Agreement
- Article 8. Emergency Admissions
- Article 9. Temporary Care Facilities
- Article 10. Discharge
- Article 11. Placement of Children Outside the Facility
- Article 12. Service Plan
- Article 13. Quarterly Progress Reports
- Article 14. Annual Service Plan Review
- Article 15. Service Plan for Temporary Care Facilities
- Article 16. Counseling and Social Services
- Article 17. Residential Services
- Article 18. Health Care Procedures
- Article 19. Physical Examinations
- Article 20. Medication
- Article 21. Nutrition
- Article 22. Discipline and Management of Resident

Proposed Regulations

Behavior

- Article 23. Confinement Procedures
- Article 24. Prohibited Means of Punishment
- Article 25. Chemical or Mechanical Restraints
- Article 26. Physical Restraint
- Article 27. Seclusion
- Article 28. Timeout Procedures
- Article 29. Education
- Article 30. Religion
- Article 31. Recreation
- Article 32. Community Relationships
- Article 33. Clothing
- Article 34. Allowances and Spending Money
- Article 35. Work and Employment
- Article 36. Visitation at the Facility and to the Child's Home
- Article 37. Use of Vehicles and Power Equipment
- Article 38. Reports to Court
- Article 39. Emergency Reports
- Article 40. Suspected Child Abuse or Neglect

PART VI - DISASTER OR EMERGENCY PLANS

- Article 1. Procedures for Meeting Emergencies
- Article 2. Written Fire Plan
- Article 3. Posting of Fire Emergency Phone Number
- Article 4. Portable Fire Extinguishers
- Article 5. Smoke Alarms
- Article 6. Fire Drills
- Article 7. Staff Training in Fire Procedures
- Article 8. "Sighted Guide" Training for Emergency Use

PART I. INTRODUCTION.

Article 1. Definitions.

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

"Allegation" means an accusation that a facility is operating without a license and/or receiving public funds, or both, for services it is not certified to provide.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license/certificate.

"Approval" means the process of recognizing that a public facility or an out-of-state facility has complied with standards for licensure or certification. (In this document the words "license" or "licensure" will include approval of public and out-of-state facilities except when describing enforcement and other negative sanctions which are described separately for these facilities.)

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the children and designed to

teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic, not confined to those technicalities which derive specifically from behavior therapy, operant conditioning, etc.)

"Case record" or *"Record"* means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Certificate to operate" means documentation of licensure or permission granted by the Department of Education to operate a school for the handicapped that is conveyed on a single license/certificate.

"Certification" means the process of recognizing that a facility has complied with those standards required for it to receive funding from one of the four departments for the provision of residential program services to children. (Under the Code of Virginia, the Board of Corrections is given authority to "approve" certain public and private facilities for the placement of juveniles. Similarly, school boards are authorized to pay, under certain conditions, for special education and related services in nonsectarian private residential schools for the handicapped that are "approved" by the Board of Education. Therefore, in this context the word "approval" is synonymous with the word "certification" and will be termed certification for purposes of this process.)

"Child" means any person legally defined as a child under state law.

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because he is mentally retarded, developmentally disabled, mentally ill, emotionally disturbed, a substance abuser, in need of special educational services for the handicapped, or requires security services.

"Complaint" means an accusation against a licensed/certified facility regarding an alleged violation of standards or law.

"Confinement procedure" means a disciplinary technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or other reinforcing stimuli through confining the child alone to his bedroom or other normally furnished room. The room in which the child is confined shall not be locked nor the door secured in any manner that will prohibit the child from opening it. See also the definitions of "Timeout

Procedure," "Seclusion," "Behavior Management," "Discipline" and other standards related to Behavior Management.

"Coordinator" means the person designated by the Coordinating Committee to provide coordination and monitoring of the interdepartmental licensure/certification process.

"Core standards" means those standards for residential care which are common to all four departments and which shall be met by all subject residential facilities for children in order to qualify for licensure, certification or approval.

"Corporal punishment" means any type of physical punishment inflicted in any manner upon the body.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

"Department of Corrections standards for youth facilities" means those additional standards which must be met in order for a facility to receive funding from the Department of Corrections for the provision of residential treatment services as a juvenile detention facility, a facility providing youth institutional services, a community group home or other residential facility serving children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Corrections except that Core Standards will be the Department of Corrections Standards for Youth Facilities for residential facilities receiving public funds pursuant to §§ 16.1-286 or 53.1-239 of the Code of Virginia for the provision of residential care to children in the custody of or subject to the jurisdiction of a juvenile court or of the Department of Corrections.

"Discipline" means systematic teaching and training that is designed to correct, mold, or perfect behavior according to a rule or system of rules governing conduct. The object of discipline is to encourage self-direction and self-control through teaching the child to accept information, beliefs and attitudes which underlie the required conduct or behavior. The methods of discipline include, besides such instruction, positive reinforcement for desirable behavior, as well as reasonable and age-appropriate consequences for undesirable behavior, provided that these consequences are applied in a consistent and fair manner that gives the child an opportunity to explain his view of the misbehavior and to learn from the experience. (See also, "Behavior Management" and "Punishment.")

"Education standards" means those additional standards which shall be met in order for a facility to (i) receive a certificate to operate an educational program that constitutes a private school for the handicapped; or (ii) be

approved to receive public funding for the provision of special education and related services to eligible children.

"Group home" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves up to 12 children.

"Group residence" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves from 13 to 24 children.

"Human research" means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects, and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of each child. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Licensee" means the person, corporation, partnership, association or public agency to whom a license is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"Licensing/certification authority" means the department and/or state board that is responsible under the Code of Virginia for the licensure, certification, or approval of a particular residential facility for children.

"Licensure" means the process of granting legal permission to operate a residential facility for children and to deliver program services. (Under the Code of Virginia, no person shall open, operate or conduct a residential school for the handicapped without a "certificate to operate" such school issued by the Board of Education. The issuance of such a "certificate to operate" grants legal permission to operate a school for the handicapped. Therefore, in this context, the term "certificate to operate" is synonymous with the word

Proposed Regulations

"licensure" and will be termed licensure for purposes of this process.)

"Living unit" means the space in which a particular group of children in care of a residential facility reside. Such space contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the children who reside in the unit. Depending upon its design, a building may contain only one living unit or several separate living units.

"Mechanical restraints" means the application of machinery or tools as a means of physically restraining or controlling a resident's behavior, such as handcuffs, straitjackets, shackles but not including bed straps, bed rails, slings and other devices employed to support and/or protect physically incapacitated children.

"Mental disabilities certification standards" means those standards in addition to Core Standards which shall be met in order for a facility to receive funding from the Department of Mental Health , and Mental Retardation and Substance Abuse Services for the provision of residential treatment services to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled and/or substance abusing children.

"Mental disabilities licensure standards" means, for those facilities that do not receive funding from the Department of Mental Health , and Mental Retardation and Substance Abuse Services , those standards in addition to Core Standards which must be met in order for a facility to be licensed to provide care or treatment to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled and/or substance abusing children.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a parent, guardian, or an individual acting as a parent in the absence of a parental guardian. The parent means either parent unless the facility has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody, which provides to the contrary. The term "parent" may include the natural mother or father, the adoptive mother or father, or the legally appointed guardian or committee who has custody of the child. The term "parent" also includes a surrogate parent appointed pursuant to provisions set forth in § II D of the Department of Education's "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia." A child 18 years or older may assert any rights under these regulations in his own name.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation and/or force with residents as a method or technique of

managing harmful resident behavior.

"Placement" means an activity by any person which provides assistance to a parent or guardian in locating and effecting the movement of a child to a foster home, adoptive home or to a residential facility for children.

"Premises" means the tract(s) of land on which any part of a residential facility for children is located and any buildings on such tract(s) of land.

"Professional child and family service worker" means an individual providing social services to a child residing in a residential facility and his family. Such services are defined in Part V, Article 16.

"Program" means a combination of procedures and/or activities carried out in order to meet a specific goal or objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Corrections; Education; Mental Health and , Mental Retardation and Substance Abuse Services; and/or Social Services.

"Punishment" means retributive, retaliatory and sometimes harsh or abusive reactions to children's misbehavior. Punishment is defined as a reaction that primarily relieves adult frustration without being rationally designed to teach or to correct children's behavior.

"Resident" means a person admitted to a residential facility for children for supervision, care, training or treatment on a 24-hour basis. For the purpose of these standards, the words, "resident," "child," "client" and "youth" are used interchangeably.

"Residential facility for children" means a publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their parents; that is subject to licensure, certification or approval pursuant to the provisions of the Code of Virginia cited in the Legal Base; and includes, but is not limited to, group homes, group residences, secure custody facilities, self-contained residential facilities, temporary care facilities and respite care facilities, except:

1. Facilities which do not accept public funds and are required to be licensed as specified in §§ 63.1-195 through 63.1-219 of the Code of Virginia may be licensed under "Child Caring Institution Standards"; Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as promulgated by the State Board of Social Services and in effect on January 1, 1987 (§ 63.1-196.4 of the Code of Virginia); and

2. Private psychiatric hospitals serving children will be

licensed by the Department of Mental Health and , Mental Retardation and Substance Abuse Services under its "Rules and Regulations for the Licensure of Private Psychiatric Hospitals . " ; and

3. Residential facilities serving children which successfully meet the requirements of nationally recognized standards setting agencies whose standards and approval process are determined by the Coordinating Committee to be substantially equivalent to Core Standard and the Interdepartmental process shall be considered as having met the requirements of the Interdepartmental Licensing/Certification process.

"*Respite care facility*" means a facility that is specifically approved to provide short term, periodic residential care to children accepted into its program in order to give the parents/guardians temporary relief from responsibility for their direct care.

"*Responsible adult*" means an adult, who may or may not be a staff member, who has been delegated authority to make decisions and to take actions necessary to assume responsibility for the safety and well-being of children assigned to his care. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

"*Right*" is something to which one has a natural, legal or moral claim.

"*Sanitize*" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"*Seclusion*" means placing a child in a room with the door secured in any manner that will prohibit the child from opening it.

"*Secure custody facility*" means a facility designed to provide, in addition to the appropriate treatment and/or service programs, secure environmental restrictions for children who must be detained and controlled on a 24-hour basis.

"*Self-contained residential facility*" means a residential setting for 13 or more children in which program activities are systematically planned and implemented as an integral part of the facility's staff functions (e.g. services are self-contained rather than provided primarily through community resources). The type of program may vary in intensity according to the needs of the residents. Such settings include nonmedical as well as state-operated hospital based care.

"*Severe weather*" means extreme environment or climate conditions which pose a threat to the health,

safety or welfare of residents.

"*Shall*" means an obligation to act is imposed.

"*Shall not*" means an obligation not to act is imposed.

"*Single license/certificate*" means a document which grants approval to operate a residential facility for children and which indicates the status of the facility with respect to compliance with applicable certification standards.

"*Standard*" means a statement which describes in measurable terms a required minimum performance level.

"*Substantial compliance*" means a demonstration by a facility of full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care, while approved plans of action to correct findings of noncompliance are being implemented.

"*Team*" means one or more representatives of the licensing certification authority(ies) designated to visit a residential facility for children to review its compliance with applicable standards.

"*Temporary care facility*" means a facility specifically approved to provide a range of services, as needed, on an individual basis for a period not to exceed 60 days except that this term does not include secure detention facilities.

"*Timeout procedure*" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or other reinforcing stimuli through confining the child alone to a special timeout room that is unfurnished or sparsely furnished and, which contains few reinforcing environmental stimuli. The timeout room shall not be locked nor the door secured in any manner that will prohibit the child from opening it. (See the definitions of "Confinement Procedure," "Seclusion," "Behavior Management," and "Discipline.")

"*Treatment*" means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental, behavioral or social functioning.

"*Visually impaired child*" means one whose vision, after best correction, limits his ability to profit from a normal or unmodified educational or daily living setting.

"*Wilderness camp*" means a facility which provides a primitive camping program with a nonpunitive environment and an experience curriculum for children nine years of age and older who cannot presently function in home, school and community. In lieu of or in addition to dormitories, cabins or barracks for housing children, primitive campsites are used to integrate learning and therapy with real living needs and problems from which

Proposed Regulations

the child can develop a sense of social responsibility and self worth.

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the basis for the requirement that private residential facilities for children be licensed, certified and approved. It also authorizes the several departments to operate or reimburse certain public facilities. In addition, P. L. 94-63 and Title XX of the Social Security Act require the establishment of quality assurance systems.

§ 1.3. The State Board of Corrections and/or the Department of Corrections are (is) responsible for approval of facilities used for the placement of court-referred juveniles, as specified by § 16.1-286 and §§ 53.1-237 and 53.1-239 of the Code of Virginia, for promulgating a statewide plan for detention and other care facilities and for prescribing standards for such facilities pursuant to §§ 16.1-310 through 16.1-314 of the Code of Virginia; and for establishing and maintaining a system of community group homes or other residential care facilities pursuant to § 53.1-249 of the Code of Virginia.

§ 1.4. The State Board of Education is responsible for issuing certificates to operate (licenses) for residential schools for the handicapped in the Commonwealth of Virginia, as specified in Chapter 16 of of Title 22.1 (§§ 22.1-319 through 22.1-335) of the Code of Virginia. It is further responsible for the general supervision of the public school system for all school age residents of Virginia (for handicapped children, ages 2-21) and for approval of private nonsectarian education programs for the handicapped, as specified by § 22.1-218 of the Code of Virginia.

§ 1.5. The Department of Mental Health and , Mental Retardation and Substance Abuse Services is responsible for licensure of facilities or institutions for the mentally ill, mentally retarded, and substance abusers within the Commonwealth of Virginia, as specified in Chapter 8 of Title 37.1 (§§ 37.1-179 through 37.1-189) of the Code of Virginia. It is also responsible for the certification of group homes as specified in § 37.1-199 of the Code of Virginia.

§ 1.6. The Department of Social Services is responsible for licensure of certain child welfare agencies and facilities in Virginia, as specified in Chapter 10 of Title 63.1 (§§ 63.1-195 through 63.1-219) of the Code of Virginia. It is also responsible for the certification of local welfare/social services department "agency operated" group homes, as specified in § 63.1-56.1 of the Code of Virginia.

Article 3. Interdepartmental Agreement.

§ 1.7. An "Agreement for Interdepartmental Licensure and Certification of Children's Residential Facilities" was

approved by the Director of the Department of Corrections; the Commissioners of the Department of Mental Health and , Mental Retardation and Substance Abuse Services and the Department of Social Services ; and the Superintendent of Public Instruction and was initially signed on January 8-9, 1979. The agreement was updated effective September 30, 1984.

This agreement commits the above departments to apply the same standards to both public and private facilities and provides a framework for:

1. The joint development and application of licensure and certification standards;
2. A single coordinated licensure, certification and approval process that includes:
 - a. A single application for appropriate licensure, certification and/or approval;
 - b. A system for review of compliance with applicable standards;
 - c. A single license/certificate issued under the authority of the appropriate department(s) or board(s); and
 - d. Clear lines of responsibility for the enforcement of standards.
3. An Office of the Coordinator to provide central coordination and monitoring of the administration of the interdepartmental licensure/certification program.

Article 4. General Licensing/Certification Requirements.

§ 1.8. All residential facilities for children must demonstrate an acceptable level of compliance with Core Standards and other applicable licensure requirements (e.g. Mental Disabilities Licensure Standards) and shall submit a plan of corrective action acceptable to the licensing authority for remedying within a specified time any noncompliance in order to be licensed to operate or be certified to receive children in Virginia. Facilities also shall demonstrate an acceptable level of compliance with other applicable standards, such as Education Standards, Mental Disabilities Certification Standards and Department of Corrections Standards for Youth Facilities, and submit a plan of corrective action acceptable to the certification authority for remedying within a specified time any noncompliance in order to be certified or approved.

§ 1.9. Investigations of applications for licensure/certification will be carried out by representatives of the licensure/certification authority with each representative participating in the evaluation of compliance with applicable standards. The decision to license or certify will be based primarily on the findings and recommendations of these representatives of the

licensing/certification authority.

§ 1.10. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

Article 5. The License/Certificate.

§ 1.11. The interdepartmental program will utilize a single licensure/certification process encompassing Core Standards and certification standards. A single document will be issued to each qualified facility which will, under appropriate statutory authority(ies), grant permission to operate a residential facility for children or certify approval for the placement of children using public funds and which will indicate the status of each facility with respect to compliance with applicable certification standards.

§ 1.12. The terms of any license/certificate issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license/certificate is issued; (iii) the physical location of the facility; (iv) the nature of the population; (v) the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the standards.

§ 1.13. The license/certificate is not transferable and automatically expires when there is a change of ownership, sponsorship, or location, or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed/certified.

§ 1.14. Separate licenses/certificates are required for facilities maintained on separate pieces of property which do not have a common boundary, even though these may be operated under the same management and may share services and/or facilities.

§ 1.15. The current license/certificate shall be posted at all times in a place conspicuous to the public.

Article 6. Types of Licenses/Certificates.

§ 1.16. An annual license/certificate may be issued to a residential facility for children that is subject to the licensure authority of the Departments of Education; Mental Health and , Mental Retardation and Substance Abuse Services , or Social Services when its activities, services and requirements substantially meet the minimum standards and requirements set forth in Core Standards, applicable certification standards and any additional

requirements that may be specified in relevant statutes. An annual license/certificate is effective for 12 consecutive months, unless it is revoked or surrendered sooner.

§ 1.17. A provisional license/certificate may be issued whenever an applicant is temporarily unable to comply with all of the requirements set forth in Core Standards or applicable certification standards and under the condition that the requirements will be met within a specified period of time. A facility with provisional licensure/certification is required to demonstrate that it is progressing toward compliance. A provisional license/certificate shall not be issued where the noncompliance poses an immediate and direct danger to the health and safety of the residents.

A. For those facilities for which the Department of Mental Health and , Mental Retardation and Substance Abuse Services is the licensing authority as specified in Chapter 8 of Title 37.1 of the Code of Virginia , at the discretion of the licensing authority a provisional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such a provisional license may be renewed, but such provisional licensure and any renewals thereof shall not exceed a period of six successive months. A provisional license also may be issued to a facility which has previously been fully licensed when such facility is temporarily unable to comply with all licensing standards. However, pursuant to § 37.1-183.2 of the Code of Virginia, such a provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

B. For those facilities for which the Department of Social Services is the licensing authority as specified in Chapter 10 of Title 63.1 of the Code of Virginia, a provisional license may be issued following the expiration of an annual license. Such provisional licensure and any renewals thereof shall not exceed a period of six successive months. At the discretion of the licensing authority, a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements.

Such a conditional license may be renewed, but such conditional licensure and any renewals thereof shall not exceed a period of six successive months.

§ 1.18. An extended license/certificate may be issued following the expiration of an annual or an extended license/certificate provided the applicant qualifies for an annual license/certificate and, additionally, it is determined by the licensing/certification authority that (i) the facility has a satisfactory compliance history; and (ii) the facility has had no significant changes in its program, population, sponsorship, staffing and management, or financial status during the term of the previous annual or extended license. In determining whether a facility has a satisfactory compliance history, the licensing/certification authority shall consider the facility's maintenance of compliance as evidenced by licensing complaints;

Proposed Regulations

monitoring visits by staff of the licensing authority; reports of health, fire and building officials; and other sources of information reflecting on the facility's continued compliance with applicable standards. An extended license is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.19. A residential facility for children operating under certification by the Department of Corrections may be issued a certificate indicating the status of the facility with respect to compliance with applicable certification standards. Such a certificate is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.20. The term of any certification(s) issued on an annual, provisional or extended license/certificate shall be coincident with the effective dates of the license.

§ 1.21. There shall be no fee to the licensee for licensure, certification or approval.

Article 7. Preapplication Consultation Services.

§ 1.22. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of the Coordinator and the participating departments.

§ 1.23. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain standards and statutes;
2. To help the potential applicant explore the operational demands of a licensed/certified/approved residential facility for children;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies; such as, the Department of Health, the State Fire Marshal, local fire department, and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed. Such comments shall be limited to advice on basic space considerations.

Article 8. The Initial Application.

§ 1.24. The application for a license to operate a residential facility for children shall be available from the Office of the Coordinator and the participating departments.

§ 1.25. All application forms and related information requests shall be designed to assure compliance with the provision of standards and relevant statutes.

§ 1.26. Completed applications along with other information required for licensure, certification or approval shall be submitted at least 60 days in advance of the planned opening date. Receipt shall be acknowledged.

Article 9. The Investigation.

§ 1.27. Following receipt and evaluation of each completed application, a team will be organized made up of representatives from the departments which will be participating in the review of that particular facility.

§ 1.28. The team will arrange and conduct an on-site inspection of the proposed facility; a thorough review of the proposed services; and investigate the character, reputation, status, and responsibility of the applicant.

Article 10. Allowable Variance.

§ 1.29. The licensing/certification authority has the sole authority to waive a standard either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The standard is not specifically required by statute or by the regulations of another government agency; and
3. Resident care would not be adversely affected.

§ 1.30. Any request for an allowable variance shall be submitted in writing to the licensing/certification authority.

§ 1.31. The denial of a request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of licensure/certification.

Article 11. Decision Regarding Licensure/Certification.

§ 1.32. Within 60 days of receipt of a properly completed application, the investigation will be completed and the applicant will be notified in writing of the decision regarding licensure/certification.

Article 12. Issuance of a License, Certificate or Approval.

§ 1.33. Private facilities.

If licensure/certification (either annual, provisional or extended) is granted, the facility will be issued a license/certificate with an accompanying letter citing any areas of noncompliance with standards. This letter will

also include any specifications of the license and may contain recommendations.

§ 1.34. Public and out-of-state facilities.

If approval is granted, the facility will be issued a certificate of approval indicating that it has met standards required for it to operate and receive public funds.

Article 13.

Intent to Deny a License, Certificate or Approval.

§ 1.35. If denial of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.36. Private facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) and sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to deny;
2. A list of noncompliances and circumstances leading to the denial; and
3. Notice of the facility's rights to a hearing.

§ 1.37. Locally-operated facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore, stating the reasons for the action, as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.38. State-operated public facilities.

The notification of intent to deny an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the Secretary stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.39. Out-of-state facilities.

The notification of denial of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.40. The hearing.

An interdepartmental hearing will be arranged when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, § 9-6.14:1 et seq., of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.41. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of denial, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

Article 14.

Renewal of License/Certificate.

§ 1.42. Approximately 90 days prior to the expiration of a license/certificate, the licensee will receive notice of expiration and an application for renewal of the license/certificate. The materials to be submitted will be indicated on the application.

In order to renew a license/certificate, the licensee shall complete the renewal application and return it and any required attachments. The licensee should submit this material within 30 days after receipt in order to allow at least 60 days to process the application prior to expiration of the license.

§ 1.43. The process for review of the facility and issuance or denial of the license/certificate will be the same as for an initial application (See Part I, Articles 8, 9, 12, 13).

Article 15.

Early Compliance.

§ 1.44. A provisional or conditional license/certificate may be replaced with an annual license/certificate when all of the following conditions exist:

1. The facility complies with all standards as listed on the face of the provisional or conditional license/certificate well in advance of its expiration date and the facility is in substantial compliance with all other standards;

2. Compliance has been verified by an on-site observation by a representative(s) of the licensing/certification authority or by written evidence provided by the licensee; and

Proposed Regulations

3. All other terms of the license/certificate remain the same.

§ 1.45. A request to replace a provisional license/certificate and to issue an annual license/certificate shall be made in writing by the licensee.

§ 1.46. If the request is approved, the effective date of the new annual license/certificate will be the same as the beginning date of the provisional license/certificate.

Article 16. Situations Requiring a New Application.

§ 1.47. A new application shall be filed in the following circumstances:

1. Change of ownership and/or sponsorship;
2. Change of location; and/or
3. Substantial change in services provided and/or target population.

Article 17. Modification of License/Certificate.

§ 1.48. The conditions of a license/certificate may be modified during the term of the license with respect to the number of children, the age range or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report of any contemplated changes in operation which would affect either the terms of the license/certificate or the continuing eligibility for a license/certificate.

A determination will be made as to whether changes may be approved and the license/certificate modified accordingly or whether an application for a new license/certificate must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article 18. Visitation of Facilities.

§ 1.49. Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

Article 19. Investigation of Complaints and Allegations.

§ 1.50. The four departments are responsible for complete and prompt investigation of all complaints and allegations, and for notification of the appropriate persons or agencies when removal of children may be necessary. Suspected

criminal violations shall be reported to the appropriate law-enforcement authority.

Article 20. Revocation of License/Certificate.

§ 1.51. Grounds for revocation.

The license, certificate or approval may be revoked when the licensee:

1. Violates any provision of the applicable licensing laws or any applicable standards made pursuant to such laws;
2. Permits, aids or abets the commission of any illegal act in such facility;
3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children; or
4. Deviates significantly from the program or services for which a license was issued without obtaining prior written approval from the licensing/certification authority and/or fails to correct such deviations within the time specified.

§ 1.52. Notification of intent to revoke.

If revocation of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.53. Private facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to revoke;
2. A list of noncompliances and circumstances leading to the revocation; and
3. Notice of the facility's rights to a hearing.

§ 1.54. Locally-operated facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore stating the reasons for the action as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.55. State-operated public facilities.

The notification of intent to revoke an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the appropriate Secretary in the Governor's Cabinet, stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.56. Out-of-state facilities.

The notification of revocation of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.57. The hearing.

An interdepartmental hearing will be arranged, when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, §9-6.14:1 et seq. of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.58. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of revocation, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

§ 1.59. Suppression of unlicensed operations.

The suppression of illegal operations or activities involves action against a person or group operating without a license/certificate or operating after a license/certificate has expired or has been denied or revoked. All allegations of illegal operations shall be investigated promptly. After consultation with counsel, action may be initiated by the licensing/certification authority against illegally operating facilities by means of civil action, by injunction or by criminal action.

§ 1.60. Appeals.

A. Following receipt of the final order transmitting the decision of the licensing/certification authority(ies) after an administrative hearing, the applicant/licensee has the right to appeal pursuant to the applicable sections of the Administrative Process Act, §9-6.14:1 et seq. of the Code of

Virginia.

B. Continued operation of a facility during the appeal process shall conform to applicable sections of the Code of Virginia.

PART II. ORGANIZATION AND ADMINISTRATION.

Article I. Governing Body.

§ 2.1. The residential facility for children shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the population to be served and the program to be offered.

§ 2.6. The licensee shall review, at least annually, the program of the facility in light of the population served and the objectives of the facility.

§ 2.7. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Accountability.

§ 2.8. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

Proposed Regulations

§ 2.9. A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.10. A new facility operated by a corporation, unincorporated organization or association, an individual or a partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and
2. A balance sheet showing assets and liabilities.

§ 2.11. Facilities having an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

1. A copy of the facility's most recently completed financial audit;
2. A report on any changes in income, expenses, assets, and liabilities that significantly change the fiscal condition of the facility as reflected in the financial audit submitted or a statement that no such changes have occurred; and
3. A working budget showing projected revenue and expenses for the coming year.

§ 2.12. Facilities operated by state or local government agencies, boards and commissions that do not have an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.13. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships that do not have a rate set in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in 1, 2, and 3 above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

§ 2.14. The facility shall provide additional evidence of

financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

§ 2.15. There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

§ 2.16. There shall be a written policy, consistent with generally accepted accounting principles, for collection and disbursement of funds unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

§ 2.17. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Article 5. Insurance.

§ 2.18. A facility shall maintain liability insurance covering the premises and the facility's operations.

§ 2.19. There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

§ 2.20. Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

Article 7. Fund-Raising.

§ 2.21. The facility shall not use children in its fund-raising activities without written permission of parent, guardian or agency holding custody.

Article 8. Relationship to Licensing Authority.

§ 2.22. The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these standards and the appropriate statutes.

§ 2.23. The governing body or its official representative shall notify the licensing authority(ies) within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program.

§ 2.24. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the children in care, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children in care;
2. Take appropriate actions to remedy such conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and
3. Notify the licensing authority(ies) of the conditions at the facility and the status of the children in care as soon as possible.

Article 9. Participation of Children in Research.

§ 2.25. The facility shall establish and implement written policies and procedures regarding the participation of children as subjects in research that are consistent with Chapter 13, of Title 37.1, of the Code of Virginia, unless the facility has established and implemented a written policy explicitly prohibiting the participation of children as subjects of human research as defined by the above statute.

Article 10. Children's Records.

§ 2.26. A separate case record on each child shall be maintained and shall include all correspondence relating to the care of that child.

§ 2.27. Each case record shall be kept up to date and in a uniform manner.

§ 2.28. Case records shall be maintained in such manner as to be accessible to staff for use in working with the child.

Article 11. Confidentiality of Children's Records.

§ 2.29. The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

§ 2.30. There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the youth.

Article 12. Storage of Confidential Records.

§ 2.31. Records shall be kept in areas which are accessible only to authorized staff.

§ 2.32. Records shall be stored in a metal file cabinet or other metal compartment.

§ 2.33. When not in use, records shall be kept in a locked compartment or in a locked room.

Article 13. Disposition of Children's Records.

§ 2.34. Children's records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

§ 2.35. Permanent information shall be kept on each child even after the disposition of the child's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Child's name;
2. Date and place of child's birth;
3. Dates of admission and discharge;
4. Names and addresses of parents and siblings; and
5. Name and address of legal guardian.

§ 2.36. Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

Article 14. Residential Facilities for Children Serving Persons Over the Age of 17 Years.

§ 2.37. Residential facilities for children subject to Interdepartmental licensure/certification which are also approved to maintain in care persons over 17 years of age, shall comply with the requirements of Core Standards for the care of all residents, regardless of age, except that residential programs serving persons over 17 years of age, shall be exempt from this requirement when it is determined by the licensing/certification authority(ies) that the housing, staff and programming for such persons is maintained separately from the housing, staff and programming for the children in care.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these standards shall be maintained for the chief administrative officer, for all staff members who come in contact with children or handle food, and for any individual who resides in a building occupied by children including any such persons who are neither staff members nor children in care of the

Proposed Regulations

facility.

Article 2.

Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment or contact with children each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed/certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by licensed physician the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's record.

Article 3.

Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

Article 4.

Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician shall be obtained when there are indications that the care of children may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination by a licensed physician or as result of tests, shows indication of a physical or mental condition which may jeopardize the safety of children in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with children and food served to children; and
2. Shall not be allowed contact with children or food served to children until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

Article 5.

Qualifications.

§ 3.9. Standards in Part III, Articles 12-14 establishing minimum position qualifications shall be applicable to all facilities. In lieu of these minimum position qualifications, (i) facilities subject to the rules and regulations of the Virginia Department of Personnel and Training, or (ii) facilities subject to the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

§ 3.10. Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions described in these standards shall meet the qualifications of that position(s) and shall fully comply with all applicable standards for each function.

§ 3.11. When services or consultations are obtained on a contract basis they shall be provided by professionally qualified personnel.

Article 6.

Job Descriptions.

§ 3.12. For each staff position there shall be a written job description which, at a minimum, shall include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.13. A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 7.

Written Personnel Policies and Procedures.

§ 3.14. The licensee shall approve written personnel policies.

§ 3.15. The licensee shall make its written personnel policies readily accessible to each staff member.

§ 3.16. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each staff position possess the knowledge, skills and abilities specified in the job description for that staff position.

§ 3.17. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for discipline and behavior

management of children;

2. Procedures for handling accusations against staff; and

3. Procedures for promptly referring suspected cases of child abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation. (See § 5.143)

§ 3.18. Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

Article 8. Personnel Records.

§ 3.19. A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A completed employment application form or other written material providing:

a. Identifying information (name, address, phone number, social security number, and any names previously utilized);

b. Educational history; and

c. Employment history.

2. Written references or notations of oral references;

3. Reports of required health examinations;

4. Annual performance evaluations; and

5. Documentation of staff development activities.

§ 3.20. Each personnel record shall be retained in its entirety for two years after employment ceases.

§ 3.21. Information sufficient to respond to reference requests on separated employees shall be permanently maintained. Information shall minimally include name, social security number, dates of employment, and position(s) held.

Article 9. Staff Development.

§ 3.22. New employees, relief staff, volunteers and students, within one calendar month of employment, shall be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

§ 3.23. Provision shall be made for staff development

activities, designed to update staff on items in § 3.22 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.24. Regular supervision of staff shall be provided.

§ 3.25. Regular supervision of staff shall not be the only method of staff development.

§ 3.26. Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

Article 10. Staff Supervision of Children.

§ 3.27. No person shall be scheduled to work more than six consecutive days between rest days.

§ 3.28. Child care staff who have at least one 24 consecutive hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.29. Child care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.30. Child care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

§ 3.31. There shall be at least one responsible adult on the premises and on duty at all times that one or more children are present.

§ 3.32. There shall be at least one child care staff member on duty in each living unit when one or more children are present.

§ 3.33. During the hours that children normally are awake there shall be no less than one child care staff awake, on duty and responsible for supervision of every 10 children present who are two years of age or older.

§ 3.34. During the hours that children normally are awake there shall be no less than one child care staff member awake, on duty, and responsible for supervision of every three children present under two years of age.

§ 3.35. In buildings where 30 or more children are sleeping there shall be no less than one child care staff member awake and on duty during night hours.

§ 3.36. There shall be at least one child care staff

Proposed Regulations

member awake on each floor and on each major wing of each floor where 30 or more children are sleeping.

§ 3.37. When children are away from the facility they and the adults responsible for their care during that absence shall be furnished with telephone number where a responsible facility staff member or other responsible adult may be reached at all times except that this requirement shall not apply to secure detention facilities.

Article 11. The Chief Administrative Officer.

§ 3.38. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the residential facility for children.

§ 3.39. Duties of the chief administrative officer may be delegated to qualified subordinate staff.

§ 3.40. Duties delegated by the chief administrative officer shall be reflected in the job description of the position assigned each delegated function.

§ 3.41. A qualified staff member shall be designated to assume responsibility for the operation of the facility in the absence of the chief administrative officer.

Article 12. The Program Director.

§ 3.42. The program director shall be responsible for the development and implementation of the programs and services (See Part V) offered by the residential facility for children.

§ 3.43. A program director appointed after July 1, 1981, shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession; or
2. A graduate degree from an accredited college or university in a profession related to child care and development; or
3. A license or certification in the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

§ 3.44. Any qualified staff member, including the chief administrative officer, may serve as the program director.

§ 3.45. When a facility is licensed/certified to care for 13 or more children, a full-time, qualified staff member shall fulfill the duties of the program director.

Article 13. Child and Family Service Worker(s).

§ 3.46. If not provided by external resources in accord with § 5.45, counseling and social services (see § 5.43), shall be provided by a staff member(s) qualified to provide such services.

§ 3.47. If employment begins after July 1, 1981, the Child and Family Service Worker shall have:

1. A graduate degree in social work, psychology, counseling or a field related to family services or child care and development; or
2. A baccalaureate degree and two years of successful experience in social work, psychology, counseling or a field related to family services or child care and development (In lieu of two years of experience, the person may work under the direct supervision of a qualified supervisor for a period of two years); or
3. A license or certificate in the Commonwealth of Virginia to render services as a drug abuse or alcoholism counselor/worker only in facilities which are certified to provide drug abuse or alcoholism counseling; or
4. A license or certificate when required by law issued in the Commonwealth of Virginia to render services in the field of:

- a. Social Work, or
- b. Psychology, or
- c. Counseling (individual, group or family).

Article 14. Child Care Staff.

§ 3.48. In each child care unit a designated staff member shall have responsibility for the development of the daily living program within the child care unit.

§ 3.49. A designated staff member shall be responsible for the coordination of all services offered to each child.

§ 3.50. A designated staff member(s) shall have responsibility for the orientation, training and supervision of child care workers.

§ 3.51. An individual employed after July 1, 1981, to supervise child care staff shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

§ 3.52. The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned. This shall include:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Discipline; and
4. Helping to meet the goals and objectives of any required service plan.

§ 3.53. A child care worker shall be no less than 18 years of age.

§ 3.54. A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.) except that individuals employed prior to the effective date of these standards shall meet this requirement by July 1, 1986; and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

Article 15. Relief Staff.

§ 3.55. Sufficient qualified relief staff shall be employed to maintain required staff/child ratios during:

1. Regularly scheduled time off of permanent staff, and
2. Unscheduled absences of permanent staff.

Article 16. Medical Staff.

§ 3.56. Services of a licensed physician shall be available for treatment of children as needed.

§ 3.57. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

§ 3.58. At all times that youth are present there shall be

at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first-aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse is present at the facility.

§ 3.59. At all times that youth are present there shall be at least one responsible adult on the premises who has received a certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

Article 17. Recreation Staff.

§ 3.60. There shall be designated staff responsible for organized recreation who shall have:

1. Experience in working with and providing supervision to groups of children with varied recreational needs and interests;
2. A variety of skills in group activities;
3. A knowledge of community recreational facilities; and
4. An ability to motivate children to participate in constructive activities.

Article 18. Volunteers and Students Receiving Professional Training.

§ 3.61. If a facility uses volunteers or students receiving professional training it shall develop written policies and procedures governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.

§ 3.62. The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.63. The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the responsibility of designated staff members.

§ 3.64. Responsibilities of volunteers/students shall be clearly defined.

§ 3.65. All volunteers/students shall have qualifications appropriate to the services they render based on experience and/or orientation.

§ 3.66. Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.67. Volunteers/students shall be informed regarding

Proposed Regulations

liability and protection.

Article 19. Support Functions.

§ 3.68. Facilities shall provide for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

§ 3.69. All food handlers shall comply with applicable State Health Department regulations and with any locally adopted health ordinances.

§ 3.70. Child care workers and other staff may assume the duties of service personnel only when these duties do not interfere with their responsibilities for child care.

§ 3.71. Children shall not be solely responsible for support functions.

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Location.

§ 4.1. A residential facility for children shall be located so that it is reasonably accessible to schools, transportation, medical and psychiatric resources, churches, and recreational and cultural facilities.

Article 2. Buildings, Inspections and Building Plans.

§ 4.2. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed/certified purposes.

§ 4.3. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operations; and

e. Swimming pools.

§ 4.4. The buildings shall be suitable to house the programs and services provided.

Article 3. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.5. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing/certification authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.6. Documentation of the approvals required by § 4.5 shall be submitted to the licensing authority(ies).

Article 4. Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Heat shall be evenly distributed in all rooms occupied by the children such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by children.

§ 4.9. All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.10. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by children when the temperature in those rooms exceeds 85°F.

Article 5. Lighting.

§ 4.11. Artificial lighting shall be by electricity.

§ 4.12. All areas within buildings shall be lighted for safety.

§ 4.13. Night lights shall be provided in halls and bathrooms.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Article 6. Plumbing and Toilet Facilities.

§ 4.17. All plumbing shall be maintained in good operational condition.

§ 4.18. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.19. Precautions shall be taken to prevent scalding from running water. In all newly constructed or renovated facilities mixing faucets shall be installed.

§ 4.20. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit, and there shall be at least one bathroom equipped with a bathtub in each facility.

§ 4.21. There shall be at least one toilet, one hand basin and one shower or tub for every eight children in care.

§ 4.22. In any facility constructed or reconstructed after July 1, 1981, except secure detention facilities there shall be one toilet, one hand basin and one shower or tub for every four children in care.

§ 4.23. When a separate bathroom is not provided for staff on duty less than 24 hours, the maximum number of staff members on duty in the living unit at any one time shall be counted in the determination of the number of toilets and hand basins.

§ 4.24. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals, secure detention facilities and learning centers.

§ 4.25. At all times an adequate supply of personal necessities shall be available to the children for purposes of personal hygiene and grooming; such as, but not limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

§ 4.26. Clean, individual washclothes and towels shall be available once each week or more often if needed.

Article 7. Facilities and Equipment for Residents with Special Toileting Needs.

§ 4.27. When residents are in care who are not toilet trained:

1. Provision shall be made for sponging, diapering and other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leakproof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned with warm soapy water immediately after each use.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting an individual resident or themselves with toileting.

Article 8. Sleeping Areas.

§ 4.28. When children are four years of age or older, boys shall have separate sleeping areas from girls.

§ 4.29. No more than four children may share a bedroom or sleeping area.

§ 4.30. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, children who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.31. There shall be sufficient space for beds to be at least three feet apart at the head, foot and sides and five feet apart at the head, foot and sides for double-decker beds.

§ 4.32. In facilities previously licensed by the Department of Social Services and in facilities established, constructed or reconstructed after July 1, 1981, sleeping quarters shall meet the following space requirements:

1. There shall be not less than 450 cubic feet of air space per person;

2. There shall be not less than 80 square feet of floor area in a bedroom accommodating only one person;

3. There shall be not less than 60 square feet of floor area per person in rooms accommodating two or more persons; and

4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.33. Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s),

Proposed Regulations

bed linens, and, if needed, a waterproof mattress cover.

§ 4.34. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.35. Mattresses and pillows shall be clean and those placed in service after July 1, 1981, shall also be fire retardant as evidenced by documentation from the manufacturer.

§ 4.36. Cribs shall be provided for children under two years of age.

§ 4.37. Each child shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.38. The sleeping area environment shall be conducive to sleep and rest.

§ 4.39. Smoking by any person shall be prohibited in sleeping areas.

Article 9. Privacy for Children.

§ 4.40. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy except in secure detention facilities.

§ 4.41. Where bathrooms are not designated for individual use, bathtubs and showers, except in secure detention facilities, shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.42. Windows in bathrooms shall provide for privacy.

§ 4.43. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily openable in case of fire or other emergency.

§ 4.44. Windows in sleeping and dressing areas shall provide for privacy.

Article 10. Living Rooms/Indoor Recreation Space.

§ 4.45. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is age appropriate.

§ 4.46. In facilities licensed to care for more than 12 children there shall be indoor recreational space that contains recreational equipment appropriate to the ages and interests of the children in residence. Such indoor recreational space shall be distinct from the living room in each living unit required by § 4.45, but such space shall not be required in every living unit.

Article 11.

Study Space.

§ 4.47. Study space shall be provided in facilities serving a school age population and may be assigned in areas used interchangeably for other purposes.

§ 4.48. Study space shall be well lighted, quiet, and equipped with at least tables or desks and chairs.

Article 12. Kitchen and Dining Areas.

§ 4.49. Meals shall be served in areas equipped with sturdy tables and benches or chairs of a size appropriate for the sizes and ages of the residents.

§ 4.50. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

§ 4.51. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

Article 13. Laundry Areas.

§ 4.52. If laundry is done at the facility, appropriate space and equipment in good repair shall be provided.

Article 14. Storage.

§ 4.53. Space shall be provided for safe storage of items such as first-aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

Article 15. Staff Quarters.

§ 4.54. A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24-hours or more except, that when there are no more than four persons, including staff and family of staff, residing in and/or on duty in the living unit, a private bathroom is not required for staff.

§ 4.55. Off duty staff and members of their families shall not share bedrooms with children in care.

§ 4.56. When 13 or more children reside in one living unit a separate (private) living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more.

§ 4.57. When child care staff are on duty for less than 24 hours, a bed shall be provided for use of each staff member on duty during night hours unless such staff member is required to remain awake.

Article 16.

Office Space.

§ 4.58. Space shall be provided for administrative activities including provision for storage of records and materials (See Part II, Article 12).

Article 17. Buildings and Grounds.

§ 4.59. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas, shall be safe, properly maintained and free of clutter and rubbish.

§ 4.60. There shall be outdoor recreational space appropriately equipped for the children to be served.

Article 18. Equipment and Furnishings.

§ 4.61. All furnishings and equipment shall be safe, easy to clean, and suitable to the ages and number of residents.

§ 4.62. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

§ 4.63. The facility shall have a written policy governing the possession and use of firearms, pellet guns, air rifles and other weapons on the premises of the facility that shall provide that no firearms, pellet guns, air rifles, or other weapons, shall be permitted on the premises of the facility unless they are:

1. In the possession of licensed security personnel; or
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for their lawful and safe use.

Article 19. Housekeeping and Maintenance.

§ 4.64. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.65. The interior and exterior of all buildings shall be kept clean and free of rubbish.

§ 4.66. All buildings shall be well-ventilated and free of stale, musty or foul odors.

§ 4.67. Adequate provisions shall be made for the collection and legal disposal of garbage and waste materials.

§ 4.68. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.69. All furnishings, linens, and indoor and outdoor equipment shall be kept clean and in good repair.

§ 4.70. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

§ 4.71. Lead based paint shall not be used on any surfaces and items with which children and staff come in contact.

Article 20. Farm and Domestic Animals.

§ 4.72. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating, and food preparation areas.

§ 4.73. Stables and corrals shall be located so as to prevent contamination of any water supply.

§ 4.74. Manure shall be removed from stalls and corrals as often as necessary to prevent a fly problem.

§ 4.75. All animals maintained on the premises shall be tested, inoculated and licensed as required by law.

§ 4.76. The premises shall be kept free of stray domestic animals.

§ 4.77. Dogs and other small animal pets and their quarters shall be kept clean.

Article 21. Primitive Campsites.

§ 4.78. The standards in Article 21 through Article 28 are applicable exclusively to the residential environment and equipment at primitive campsites. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with the remaining standards in Part IV.

§ 4.79. All campsites shall be well drained and free from depressions in which water may stand.

§ 4.80. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

§ 4.81. Campsites shall not be in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

§ 4.82. The campsite shall be free from debris, noxious plants, and uncontrolled weeds or brush.

Article 22. Water in Primitive Campsites.

§ 4.83. Drinking water used at primitive campsites and on hikes away from permanent campsites shall be from a source known to be safe (free of coliform organisms) or

Proposed Regulations

shall be rendered safe before use in a manner approved by the Virginia Department of Health.

§ 4.84. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for handwashing, dishwashing, food preparation and drinking.

Article 23.

Food Service Sanitation in Primitive Campsites.

§ 4.85. Food shall be obtained from approved sources and shall be properly identified.

§ 4.86. Milk products shall be pasteurized.

§ 4.87. Food and drink shall be maintained and stored so as to prevent contamination and spoilage.

§ 4.88. The handling of food shall be minimized through the use of utensils.

§ 4.89. Fruits and vegetables shall be properly washed prior to use.

§ 4.90. Food and food containers shall be covered and stored off the ground and on clean surfaces. Refrigerated food shall also be covered.

§ 4.91. Sugar and other condiments shall be packaged or served in closed dispensers.

§ 4.92. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

§ 4.93. Persons with wounds or communicable diseases shall be prohibited from handling food.

§ 4.94. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, shall keep hands clean at all times, and shall thoroughly wash their hands with soap and water after each visit to the toilet.

§ 4.95. Food contact surfaces shall be kept clean.

§ 4.96. All eating utensils and cookware shall be properly stored.

§ 4.97. Disposable or single use dishes, receptacles and utensils shall be properly stored, handled and used only once.

§ 4.98. Eating utensils shall not be stored with food or other materials and substances.

§ 4.99. The use of a common drinking cup shall not be permitted.

§ 4.100. Only food which can be maintained in a wholesome condition with the equipment available shall be used at primitive camps.

§ 4.101. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled, and dispensed in a sanitary manner and be free from contamination.

§ 4.102. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24-hours.

§ 4.103. Eating utensils and cookware shall be washed and sanitized after each use.

§ 4.104. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in such a manner as to prevent proper cleaning and sanitizing.

§ 4.105. Solid wastes which are generated in primitive camps shall be disposed of at an approved sanitary landfill or similar disposal facility. Where such facilities are not available, solid wastes shall be disposed of daily by burial under at least two feet of compacted earth cover in a location which is not subject to inundation by flooding.

Article 24.

Toilet Facilities in Primitive Campsites.

§ 4.106. Where a water supply is not available sanitary type privies or portable toilets shall be provided. All such facilities shall be constructed as required by the Virginia Department of Health.

§ 4.107. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent flybreeding.

§ 4.108. Privies shall be located at least 150 feet from a stream, lake or well and at least 75 feet from a sleeping or housing facility.

§ 4.109. Primitive campsites which are not provided with approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

§ 4.110. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

Article 25.

Heating in Primitive Campsites.

§ 4.111. All living quarters and service structures at primitive campsites shall be provided with properly installed, operable, heating equipment.

§ 4.112. No portable heaters other than those operated by electricity shall be used.

§ 4.113. Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases.

§ 4.114. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, installed metal sheet, or other fireproof materials on the floor under each stove and extending at least 18 inches beyond the perimeter of the base of the stove.

§ 4.115. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stove-pipe shall be of fireproof material.

§ 4.116. A vented metal collar or other insulating device shall be installed around a stove pipe or vent passing through a wall, ceiling, floor or roof to prevent melting or combustion.

§ 4.117. A vented collar, insulating device, or chimney shall extend above the peak of the roof or otherwise be constructed in a manner which allows full draft of smoke.

§ 4.118. When a heating system has automatic controls the controls shall be of the type which will cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

§ 4.119. All heating equipment shall be maintained and operated in a safe manner to prevent the possibility of fire.

Article 26.

Sleeping Areas and Equipment in Primitive Campsites.

§ 4.120. Bedding shall be clean, dry, and sanitary.

§ 4.121. Bedding shall be adequate to ensure protection and comfort in cold weather.

§ 4.122. If used, sleeping bags shall be fiberfill and rated for O°F.

§ 4.123. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

§ 4.124. Bedwetters shall have their bedding changed or dried as often as it is wet.

§ 4.125. If mattresses are used they shall be clean.

§ 4.126. Mattresses placed in service after July 1, 1981, shall be fire retardant as evidenced by documentation from the manufacturer.

§ 4.127. A mattress cover shall be provided for each mattress.

§ 4.128. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

§ 4.129. A separate bed, bunk, or cot shall be made available for each person.

Article 27.

Clothing in Primitive Campsites.

§ 4.130. Each child shall be provided with an adequate supply of clean clothing suitable for outdoor living appropriate to the geographic location and season.

§ 4.131. Sturdy, water-resistant, outdoor shoes or boots shall be provided for each child.

§ 4.132. An adequate personal storage area shall be available for each resident.

Article 28.

Fire Prevention in Primitive Campsites.

§ 4.133. With the consultation and approval of the local fire authority a written fire plan shall be established indicating the campsite's fire detection system, fire alarm and evacuation procedures.

§ 4.134. The fire plan shall be implemented through the conduct of fire drills at the campsite at least once each month.

§ 4.135. A record of all fire drills shall be maintained.

§ 4.136. The record for each fire drill shall be retained two years subsequent to the drill.

§ 4.137. An approved 2A 10BC fire extinguisher in operable condition shall be maintained immediately adjacent to the kitchen or food preparation area.

§ 4.138. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other combustion at the primitive campsite.

PART V. PROGRAMS AND SERVICES.

Article 1.

Criteria for Admission.

§ 5.1. Each residential facility for children except secure detention facilities shall have written criteria for admission that shall be made available to all parties when placement for a child is being considered. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered; and

Proposed Regulations

3. Intake and admission procedures including necessary referral documentation.

§ 5.2. No child with special needs shall be accepted for placement by a facility unless that facility has a program appropriate to meet those needs or arrangements are made for meeting those needs through community resources unless the child's admission is required by court order.

§ 5.3. The facility shall accept and maintain only those children whose needs are compatible with those services provided through the facility unless a child's admission is required by court order.

§ 5.4. A facility shall not knowingly accept into care a child whose health or behavior shall present a clear and present danger to the child or others residing in the facility unless the facility is licensed or certified to provide such care or a child's admission is required by court order. (See requirements for certification or special licensure.)

Article 2.

Admission of Blind or Visually Impaired Children.

§ 5.5. When a blind or visually impaired child is admitted to a residential facility for children, the facility shall obtain the services of the staff of the Virginia Department for the Visually Handicapped as consultants for assessment, program planning and prescribed teaching (if not previously obtained).

§ 5.6. Provision of the services of the Department for the Visually Handicapped shall be documented in the child's record.

§ 5.7. If the services of the Department for the Visually Handicapped are not obtained the child's placement shall be considered inappropriate.

Article 3.

Interstate Compact on the Placement of Children.

§ 5.8. No child shall be accepted for placement from outside of the Commonwealth of Virginia without the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, except that this section shall not apply when the Interstate Compact Relating to Juveniles applies.

§ 5.9. Documentation of approval of the compact administrator shall be retained in the child's record.

Article 4.

Documented Study of the Child.

§ 5.10. Acceptance for care, other than emergency or diagnostic care, shall be based on an evaluation of a documented study of the child except that the requirements of this article shall not apply (i) to

temporary care facilities, or (ii) to secure detention facilities.

§ 5.11. If a facility is specifically approved to provide residential respite care, the acceptance by the facility of a child as eligible for respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

§ 5.12. In facilities required to base their acceptance for care on a documented study of the child, at the time of a routine admission or 30 days after an emergency admission each child's record shall contain all of the elements of the documented study.

§ 5.13. The documented study of the child shall include all of the following elements (When information on the child is not available, the reason shall be documented in the child's record):

1. A formal request or written application for admission;
2. Identifying information documented on a face sheet (see § 5.14);
3. Physical examination as specified in § 5.59;
4. Medical history (see § 5.15);
5. A statement, such as a report card, concerning the child's recent scholastic performance, including a current Individual Education Plan (IEP), if applicable;
6. Results of any psychiatric or psychological evaluations of the child, if applicable;
7. Social and developmental summary (see § 5.16);
8. Reason for referral; and
9. Rationale for acceptance.

§ 5.14. Identifying information on a face sheet shall include:

1. Full name of resident;
2. Last known residence;
3. Birthdate;
4. Birthplace;
5. Sex of child;
6. Racial and national background;
7. Child's Social Security number;
8. Religious preference of child and/or parents;

9. Custody status indicating name and address of legal guardian, if any;

10. Names, addresses and telephone numbers for emergency contacts, parents, guardians or representative of the child-placing agency, as applicable; and

11. Date of admission.

§ 5.15. A medical history shall include:

1. Serious illnesses and chronic conditions of the child's parents and siblings, if known;
2. Past serious illnesses, infectious diseases, serious injuries, and hospitalizations of the child;
3. Psychological, psychiatric and neurological examinations, if applicable;
4. Name, address and telephone number of child's former physician(s), when information is available; and
5. Name, address and telephone number of child's former dentist(s), when information is available.

§ 5.16. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous placement history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for care apart from the family setting;
5. Names, address(es), Social Security numbers, and marital status of parents; and
6. Names, ages, and sex of siblings.

Article 5.

Preplacement Activities Documentation.

§ 5.17. At the time of the admission, except emergency admissions, involuntary admissions to security settings or admissions by court order the facility shall provide evidence of its cooperation with the placing agency in preparing the child and the family for the child's admission by documenting the following:

1. A preplacement visit by the child accompanied by a family member, an agency representative or other responsible adult;
2. Preparation through sharing information with the child, the family and the placing agency about the

facility, the staff, the children and activities; and

3. Written confirmation of the admission decision to the family or legal guardian and to the placing agency.

Article 6.

Authority to Accept Children.

§ 5.18. Children shall be accepted only by court order or by written placement agreement with parents, legal guardians or other individuals or agencies having legal authority to make such an agreement except that this requirement shall not apply to temporary care facilities when a voluntary admission is made according to Virginia law. (See Part V, Article 9)

Article 7.

Written Placement Agreement.

§ 5.19. At the time of admission the child's record shall contain the written placement agreement from the individual or agency having custody and/or a copy of the court order authorizing the child's placement.

§ 5.20. The written placement agreement shall:

1. Give consent for the child's placement in the facility designating the name and physical location of the facility and the name of the child;
2. Recognize the rights of each of the parties involved in the placement clearly defining areas of joint responsibility in order to support positive placement goals;
3. Include financial responsibility, where applicable;
4. Specify the arrangements and procedures for obtaining consent for necessary medical, dental and surgical treatment or hospitalization;
5. Address the matter of all absences from the facility and shall specify the requirements for notifying and/or obtaining approval of the party having legal responsibility for the child. If there are to be regular and routine overnight visits away from the facility without staff supervision the agreement must state that advance approval of the individual(s) or agency legally responsible for the child is required.

Article 8.

Emergency Admissions.

§ 5.21. Facilities other than temporary care facilities or secure detention facilities receiving children under emergency circumstances shall meet the following requirements:

1. Have written policies and procedures governing such admissions; and

Proposed Regulations

2. Place in each child's record a written request for care or documentation of an oral request for care.

Article 9. Temporary Care Facility.

§ 5.22. At the time of admission to a temporary care facility the following shall be documented in the child's record:

1. A written request for admission or documentation of an oral request for care;
2. A court order or a written placement agreement (see § 5.18), if the facility is licensed pursuant to Chapter 10 of Title 63.1 of the Code of Virginia as a Child Caring Institution;
3. Identifying information documented on a face sheet which shall include:
 - a. Full name of child,
 - b. Birthdate,
 - c. Sex of child,
 - d. Racial/ethnic background,
 - e. Last known address,
 - f. Names and addresses of persons or agencies to contact in case of emergency,
 - g. Date of admission, and
 - h. Child's social security number;
4. The child's health status including:
 - a. A statement of known and/or obvious illnesses and handicapping conditions;
 - b. A statement of medications currently being taken;
 - c. A statement of the child's general health status; and
 - d. Name, address and telephone number of the child's physician, if known; and
5. A statement describing the child's need for immediate temporary care.

§ 5.23. When identifying information is not available the reason shall be documented on the face sheet.

Article 10. Discharge.

§ 5.24. If a facility is specifically approved to provide

residential respite care a child will be discharged when the child and his parents/guardians no longer intend to use the facility's services.

§ 5.25. All facilities, except for secure detention facilities, shall have written criteria for termination of care that shall include:

1. Criteria for a child's completion of the program as described for compliance with § 2.5; and
2. Conditions under which a child may be discharged before completing the program.

§ 5.26. Except when discharge is ordered by a court of competent jurisdiction prior to the planned discharge date each child's record shall contain the following:

1. Documentation that the termination of care has been planned with the parent/guardian/child-placing agency and with the child; and
2. A written discharge plan and documentation that it was prepared and discussed with the child, when appropriate, prior to the child's discharge. The plan shall contain at least:
 - a. An assessment of the child's continuing needs; and
 - b. A recommended plan for services in the youth's new environment.

§ 5.27. No later than 10 days after any discharge, except those from secure detention, the child's record shall contain the following information:

1. Date of discharge;
2. Reason for discharge;
3. Documentation that the reason for discharge was discussed with the parent/guardian/child-placing agency and, when appropriate, with the child, except that this requirement does not apply to court ordered discharges;
4. Forwarding address of the child, if known;
5. Name and address of legally responsible party to whom discharge was made; and
6. In cases of interstate placement documentation that the Administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

§ 5.28. A comprehensive discharge summary shall be placed in the child's record no later than 30 days after discharge except in a secure detention facility.

§ 5.29. A comprehensive discharge summary shall include:

1. Length of a child's residence at the time of discharge;
2. The name of the child's designated case coordinator, if assigned;
3. Information concerning new or currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
4. Summary of the child's overall progress during placement;
5. Summary of family contracts during placement, if any; and
6. Reasons for discharge.

§ 5.30. Except in secure detention, children shall be discharged only to the legally responsible party from whom they were accepted except (i) in cases where legal responsibility has been transferred to another person or agency during the period of the child's stay in the facility or (ii) in cases where a child committed pursuant to a court order is given a direct discharge by the agents of the appropriate State Board in accordance with law and policy.

Article 11.

Placement of Children Outside the Facility.

§ 5.31. Except in a secure detention facility the facility shall not place a child away from the facility, including in staff residences regardless of location, without first having obtained a Child Placing Agency license from the Department of Social Services. Temporary absences for the purposes of medical care, attendance at day school, or vacations shall not be deemed to be placements.

Article 12. Service Plan.

§ 5.32. A written individualized service plan, based on information derived from the documented study of the child and other assessments made by the facility, shall be developed for each child, within 30 days of admission and placed in the child's master file except that the requirements of this article do not apply (i) to secure detention facilities or (ii) to temporary care facilities.

§ 5.33. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized service plan:

1. The child;
2. The child's family or legally authorized representative;
3. The placing agency; and

4. Facility staff.

§ 5.34. The degree of participation, or lack thereof, of each of the parties listed in § 5.33 in developing the service plan shall be documented in the child's record.

§ 5.35. The individualized service plan shall include, but not necessarily be limited to, the following:

1. A statement of the resident's current level of functioning including strengths and weaknesses, and corresponding educational, residential and treatment/training needs;
2. A statement of goals and objectives meeting the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement identifying the individual(s) delegated the responsibility for the overall coordination and integration of the services specified in the plan;
6. A statement of the timetable for the accomplishment of the resident's goals and objectives; and
7. The estimated length of the resident's stay.

Article 13. Quarterly Progress Reports.

§ 5.36. For all facilities except secure detention facilities written progress summary reports completed at least every 90 days shall be included in each child's record and shall include:

1. Reports of significant incidents, both positive and negative;
2. Reports of visits with the family;
3. Changes in the child's family situation;
4. Progress made toward the goals and objectives described in the Service Plan required by § 5.32;
5. School reports;
6. Discipline problems in the facility and the community;
7. Summary of the child's social, emotional, and physical development during the previous three months including a listing of any specialized services

Proposed Regulations

and on-going medications prescribed;

8. Reevaluation of the placement including tentative discharge plans.

Article 14. Annual Service Plan Review.

§ 5.37. For all facilities except secure detention facilities at least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the service plan based on the child's current level of functioning and needs:

1. The resident;
2. The resident's family or legally authorized representative;
3. The placing agency; and
4. Facility staff.

§ 5.38. The degree of participation, or lack thereof, of each of the parties listed in § 5.37 in reviewing and rewriting the service plan shall be documented in the child's record except that this section does not apply to secure detention facilities.

§ 5.39. Staff responsible for the daily implementation of the child's individual service plan shall be represented on the staff team that evaluates adjustment and progress and makes plans for individual children except that this section does not apply to secure detention facilities.

§ 5.40. Staff responsible for daily implementation of the child's individualized service plan shall be able to describe resident behavior in terms of the objectives in the service plan except that this section does not apply to secure detention facilities.

Article 15. Service Plan for Temporary Care Facilities.

§ 5.41. An individualized service plan including the elements required by § 5.42 shall be developed for each child admitted to a temporary care facility and placed in the child's master file within 72 hours of admission.

§ 5.42. The individualized service plan shall include:

1. The child's description of his situation/problem;
2. Documentation of contact with the child's parent or guardian to obtain his description of the child's situation/problem;
3. The facility staff's assessment of the child's situation/problem;
4. A plan of action including:

- a. Services to be provided,
 - b. Activities to be provided,
 - c. Who is to provide services and activities, and
 - d. When services and activities are to be provided;
5. The anticipated date of discharge, and
6. An assessment of the child's continuing need for services.

Article 16. Counseling and Social Services.

§ 5.43. For all facilities except secure detention facilities the program of the facility shall be designed to provide counseling and social services which address needs in the following areas:

1. Helping the child and the parents or guardian to understand the effects on the child of separation from the family and the effect of group living;
2. Assisting the child and the family in maintaining their relationships and planning for the future care of the child;
3. Utilizing appropriate community resources in providing services and maintaining contacts with such resources;
4. Helping the child with problems affecting the ability to have satisfying personal relationships and use of the capacity for growth;
5. Conferring with the child care staff to help them understand the child's needs in order to promote adjustment to group living; and
6. Working with the child and with the family or any placing agency that may be involved in planning for the child's future and in preparing the child for return home, for independent living, or for other residential care.

§ 5.44. The provision of counseling and social services shall be documented in each child's record except that this section does not apply to secure detention facilities.

§ 5.45. For all facilities, except secure detention facilities, counseling and/or other social services consistent with the goals of the Service Plan shall be provided to meet the specific needs of each child in one of the following ways:

1. By a qualified staff member;
2. By service staff of the agency that placed the child provided such staff is available on an as needed basis rather than on a limited basis (e.g. quarterly or

semiannually);

3. On a contract basis by a professional child and family service worker licensed to practice in the Commonwealth of Virginia, other state(s) or the District of Columbia; or

4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community based group.

Article 17. Residential Services.

§ 5.46. There shall be evidence of a structured program of care that is designed to:

1. Meet the child's physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.47. There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

§ 5.48. A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by children including health and dental complaints or injuries.

§ 5.49. Entries in the daily activity log shall be signed or initialed by the person making the entry.

§ 5.50. Routines shall be planned to assure that each child shall have the amount of sleep and rest appropriate for his age and physical condition.

§ 5.51. Staff shall provide daily monitoring and supervision, and instruction, as needed, to promote the personal hygiene of the children.

Article 18. Health Care Procedures.

§ 5.52. Facilities shall have written procedures for the prompt provision of:

1. Medical and dental services for health problems identified at admission;
2. Routine ongoing and follow-up medical and dental services after admission; and
3. Emergency services for each child as provided by statute or by agreement with the child's parent(s) and/or legal guardian.

§ 5.53. For all facilities except temporary care facilities written information concerning each child shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and/or dentist to be notified;

2. Name, address, and telephone number of relative or other person to be notified;

3. Medical insurance company name and policy number or Medicaid number except that this requirement does not apply to secure detention facilities;

4. Information concerning:

a. Use of medication,

b. Medication allergies,

c. Any history of substance abuse except that this requirement does not apply to secure detention, and

d. significant medical problems; and

5. Written permission for emergency medical or dental care or a procedure and contacts for obtaining consent for emergency medical or dental care except that this section does not apply to secure detention facilities.

§ 5.54. Facilities specifically approved to provide respite care shall update the information required by § 5.53 at the time of each individual stay at the facility.

Article 19. Physical Examinations.

§ 5.55. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility, except that (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days after admission if a child is admitted on an emergency basis and a report of physical examination is not available, and (iii) this section does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

§ 5.56. Following the initial examination, each child shall have a physical examination annually except that this section does not apply to (i) security detention facilities, or (ii) temporary care facilities.

§ 5.57. In all facilities except (i) secure detention facilities, and (ii) temporary care facilities additional or follow-up examination and treatment shall be required when:

Proposed Regulations

1. Prescribed by the examining physician; or
2. Symptoms indicate the need for an examination or treatment by a physician.

§ 5.58. Each physical examination report shall be included in the child's record.

§ 5.59. For all facilities except (i) secure detention facilities and (ii) temporary care facilities each physical examination report shall include:

1. Immunizations administered;
2. Visual acuity;
3. Auditory acuity;
4. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
5. Allergies, chronic conditions, and handicaps, if any;
6. Nutritional requirements, including special diets, if any;
7. Restriction of physical activities, if any;
8. Recommendations for further treatment, immunizations, and other examinations indicated;
9. The date of the physical examination; and
10. The signature of a licensed physician, the physician's designee, or an official of a local health department.

§ 5.60. In all facilities except (i) secure detention facilities and (ii) temporary care facilities a child with a communicable disease, whose best interests would not be served by prohibiting admission, may be admitted only after a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing other children in care and staff; and
2. The facility is aware of the required treatment for the child and procedures to protect other children in care and staff.

§ 5.61. Recommendations for follow-up medical observation and treatment shall be carried out at the recommended intervals except that this section does not apply to (i) secure detention facilities or (ii) temporary care facilities.

§ 5.62. Except for (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities, each facility shall provide written evidence of:

1. Annual examinations by a licensed dentist; and
2. Follow-up dental care as recommended by the dentist or as indicated by the needs of each child.

§ 5.63. Each child's record shall include notations of health and dental complaints and injuries showing symptoms and treatment given.

§ 5.64. Each child's record shall include a current record of ongoing psychiatric or other mental health treatment and reports, if applicable.

§ 5.65. Provision shall be made for suitable isolation of any child suspected of having a communicable disease.

§ 5.66. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

Article 20. Medication.

§ 5.67. All medication shall be securely locked and properly labeled.

§ 5.68. Medication shall be delivered only by staff authorized by the director to do so.

§ 5.69. Staff authorized to deliver medication shall be informed of any known side effects of the medication and the symptoms of the effect.

§ 5.70. A program of medication shall be instituted for a specific child only when prescribed in writing by a licensed physician.

§ 5.71. Medications that are classified as "controlled substances" as defined in § 54-524.2 of the Code of Virginia shall only be obtained from a licensed physician or from a licensed pharmacist upon individual prescription of a licensed physician.

§ 5.72. A daily log shall be maintained of all medicines received by the individual child.

§ 5.73. The attending physician shall be notified immediately of drug reactions or medication errors.

§ 5.74. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

§ 5.75. At least one 30cc bottle of syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 21. Nutrition.

Proposed Regulations

§ 5.76. Provisions shall be made for each child to have three nutritionally balanced meals daily.

§ 5.77. Menus shall be planned at least one week in advance.

§ 5.78. Any deviation(s) from the menu shall be noted.

§ 5.79. The menus including any deviations shall be kept on file for at least six months.

§ 5.80. The daily diet for children shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

§ 5.81. The quantity of food served shall be adequate for the ages of the children in care.

§ 5.82. Special diets shall be provided when prescribed by a physician.

§ 5.83. The established religious dietary practices of the child shall be observed.

§ 5.84. Staff who eat in the presence of the children shall be served the same meals.

§ 5.85. There shall be no more than 15 hours between the evening meal and breakfast the following day.

Article 22.

Discipline and Management of Resident Behavior.

§ 5.86. The facility shall have written disciplinary and behavior management policies, including written rules of conduct, appropriate to the age and developmental level of the children in care.

§ 5.87. Disciplinary and behavior management policies and rules of conduct shall be provided to children, families and referral agencies prior to admission except that for court ordered or emergency admissions this information shall be provided within 72 hours after admission.

§ 5.88. There shall be written procedures for documenting and monitoring use of the disciplinary and behavior management policies.

§ 5.89. Control, discipline and behavior management shall be the responsibility of the staff.

Article 23.

Confinement Procedures.

§ 5.90. When a child is confined to his own room as a means of discipline, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it, except that this section does not apply to secure custody facilities such as learning centers and secure detention facilities.

§ 5.91. Any child confined to his own room shall be able to communicate with staff.

§ 5.92. There shall be a staff check on the room at least every 30 minutes.

§ 5.93. The use of confinement procedures shall be documented.

Article 24.

Prohibited Means of Punishment.

§ 5.94. The following methods of punishment shall be prohibited:

1. Deprivation of nutritionally balanced meals, snacks, and drinking water;
2. Prohibition of contacts and visits with family, legal guardian, attorney, probation officer, or placing agency representative;
3. Limitation of receipt of mail;
4. Humiliating or degrading practices including ridicule or verbal abuse;
5. Corporal punishment, including any type of physical punishment inflicted upon the body;
6. Subjection to unclean and unsanitary living conditions;
7. Deprivation of opportunities for bathing and access to toilet facilities; and
8. Deprivation of health care including counseling.

Article 25.

Chemical or Mechanical Restraints.

§ 5.95. The use of mechanical and/or chemical restraints is prohibited unless use is specifically permitted by a special license or certification module.

Article 26.

Physical Restraint.

§ 5.96. A child may be physically restrained only when the child's uncontrolled behavior would result in harm to the child or others and when less restrictive interventions have failed.

§ 5.97. The use of physical restraint shall be only that which is minimally necessary to protect the child or others.

§ 5.98. If the use of physical restraint or the use of other measures permitted by a certification module is unsuccessful in calming and moderating the child's behavior the child's physician, the rescue squad, the police

Proposed Regulations

or other emergency resource shall be contacted for assistance.

§ 5.99. Any application of physical restraint shall be fully documented in the child's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, and extent of physical restraint used.

Article 27. Seclusion.

§ 5.100. Secluding a child in a room with the door secured in any manner that will prohibit the child from opening it shall be prohibited unless it is specifically permitted by a special license or certification module.

Article 28. Timeout Procedures.

§ 5.101. Timeout procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

§ 5.102. When a child is placed in a timeout room, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it.

§ 5.103. Any child in a timeout room shall be able to communicate with staff.

§ 5.104. The use of timeout procedures shall not be used for periods longer than 30 consecutive minutes.

§ 5.105. Written documentation shall be maintained verifying that each child placed in a timeout room has been checked by staff at least every 15 minutes.

§ 5.106. A child placed in a timeout room shall have bathroom privileges according to need.

§ 5.107. If a meal is scheduled while a child is in timeout, the meal shall be provided to the child at the end of the timeout procedure.

Article 29. Education.

§ 5.108. Each child of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia.

§ 5.109. The facility shall provide educational guidance and counseling for each child in selection of courses and shall ensure that education is an integral part of the child's total program.

§ 5.110. Facilities operating educational programs for handicapped children shall operate those programs in compliance with applicable state and federal regulations.

§ 5.111. When a handicapped child has been placed in a

residential facility without the knowledge of school division personnel in the child's home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of handicapped children.

§ 5.112. When a facility has an academic or vocational program that is not certified or approved by the Department of Education, teachers in the program shall provide evidence that they meet the qualifications that are required in order to teach those specific subjects in the public schools.

Article 30. Religion.

§ 5.113. The facility shall have written policies regarding the opportunities for the children to participate in religious activities.

§ 5.114. The facility's policies on religious participation shall be available to the child and any individual or agency considering the placement of a child in the facility.

§ 5.115. Children shall not be coerced to participate in religious activities.

Article 31. Recreation.

§ 5.116. There shall be a written description of the recreation program for the facility showing activities which are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the children and which includes:

1. Opportunities for individual and group activities;
2. Free time for children to pursue personal interests which shall be in addition to a formal recreation program;
3. Except in secure detention facilities, use of available community recreational resources and facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and
5. Regularly scheduled indoor and outdoor recreational activities that are specifically structured to develop skills and attitudes (e.g., cooperation, acceptance of losing, etc.).

§ 5.117. The recreational program provided indoors, outdoors (both on and off the premises), and on field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the specific activities.

§ 5.118. Opportunities shall be provided for coeducational activities appropriate to the ages and developmental levels of the children.

Article 32. Community Relationships.

§ 5.119. Opportunities shall be provided for the children in a group living situation to participate in activities and to utilize resources in the community except that this section does not apply to secure detention facilities.

§ 5.120. Community interest in children and efforts on their behalf (public parties, entertainment, invitations to visit families) shall be carefully evaluated to ascertain that these are in the best interest of the children.

Article 33. Clothing.

§ 5.121. Provisions shall be made for each child to have his own adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

§ 5.122. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities.

§ 5.123. Children shall have the opportunity to participate in the selection of their clothing except that this section does not apply to secure detention facilities.

§ 5.124. Each child's clothing shall be inventoried and reviewed at regular intervals to assure repair or replacement as needed.

§ 5.125. The child shall be allowed to take personal clothing when the child leaves the facility.

Article 34. Allowances and Spending Money.

§ 5.126. The facility shall provide opportunities appropriate to the ages and developmental levels of the children for learning the value and use of money through earning, budgeting, spending, giving and saving except that this section does not apply to secure detention facilities.

§ 5.127. There shall be a written policy regarding allowances except that this section does not apply to secure detention facilities.

§ 5.128. The written policy regarding allowances shall be made available to parents and/or guardians at the time of admission except that this section does not apply to secure detention facilities.

§ 5.129. The facility shall provide for safekeeping and for record keeping of any money that belongs to children.

Article 35.

Work and Employment.

§ 5.130. Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the child.

§ 5.131. Chores shall not interfere with regular school programs, study periods, meals or sleep.

§ 5.132. Work assignments or employment outside the facility including reasonable rates of payment shall be approved by the program director with the knowledge and consent of the parent, guardian or placing agency except that this section does not apply to secure detention facilities.

§ 5.133. The facility shall ensure that any child employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment except that this section does not apply to secure detention facilities.

§ 5.134. Any money earned through employment of a child shall accrue to the sole benefit of that child.

Article 36. Visitation at the Facility and to the Child's Home.

§ 5.135. The facility shall provide written visitation policies and procedures permitting reasonable visiting privileges and flexible visiting hours.

§ 5.136. Copies of the written visitation policies and procedures shall be made available to the parents, guardians, the child and other interested persons important to the child no later than the time of admission except that when parents or guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 12 hours after admission.

Article 37. Use of Vehicles and Power Equipment.

§ 5.137. Any transportation provided for and/or used by children shall be in compliance with state, federal and/or international laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 5.138. There shall be written safety rules for transportation of children, including handicapped children, appropriate to the population served.

§ 5.139. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Proposed Regulations

Article 38. Reports to Court.

§ 5.140. When the facility has received legal custody of a child pursuant to §§ 16.1-279 A or 16.1-279 B of the Code of Virginia copies of any foster care plans (required by §§ 16.1-281 and 16.1-282 of the Code of Virginia) submitted to the court shall be filed in the child's record except that this section does not apply to secure detention facilities.

Article 39. Emergency Reports.

§ 5.141. Any serious incident, accident or injury to the child; any overnight absence from the facility without permission; any runaway; and/or any other unexplained absence shall be reported to the parent/guardian/placing agency within 24 hours.

§ 5.142. The child's record shall contain:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the parent/guardian or placing agency; and
6. The name of the person to whom the report was made.

Article 40. Suspected Child Abuse or Neglect.

§ 5.143. Any case of suspected child abuse or neglect shall be reported immediately to the local department of public welfare/social services as required by § 63.1-248.3 of the Code of Virginia.

§ 5.144. The child's record shall include:

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Procedures for Meeting Emergencies.

§ 6.1. Established written procedures shall be made known to all staff and residents, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation including alternate housing.

Article 2. Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and residents with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of residents with special needs, and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which children sleep or participate in programs.

Article 4. Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or a post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds, it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tied down, locked in a cabinet, or placed in a closet or on the floor, except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each bedroom hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a

furnace or other heat source; and

5. In each additional location directed by the local building official, the local fire authority, and/or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors each smoke detector shall be tested by properly oriented facility staff at least once each month and if it is not functioning, it shall be restored immediately to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspection.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility occupied by children.

§ 6.18. Fire drills shall include, as a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;

Proposed Regulations

2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Staff tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other;
7. Summary; and
8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these standards and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the written fire plan;
3. Consult with the local fire authority, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7. Staff Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more children.

Article 8.

"Sighted Guide" Training for Emergency Use.

§ 6.27. When a blind or visually impaired child is admitted the facility shall obtain the services of an orientation and mobility specialist from the Department of Visually Handicapped to provide "sighted guide" training for use in emergencies except that this requirement shall not apply to secure detention facilities.

§ 6.28. "Sighted guide" training for use in emergencies shall be required of all personnel having responsibility for supervision of a blind or visually handicapped child except that this requirement shall not apply to secure detention facilities.

DEPARTMENT OF TAXATION

Title of Regulations: Virginia Declaration of Estimated Income Tax by Individuals.

VR 630-2-490.1. Definitions.

VR 630-2-490.2. Declarations of Estimated Tax.

VR 630-2-492. Failure by Individual to Pay Estimated Tax.

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

Public Hearing Date: November 15, 1988 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

These proposed regulations are being amended to conform to the changes made by the 1987 General Assembly to §§ 58.1-490 and 58.1-492 of the Code of Virginia. These amendments authorized the Tax Commissioner to set the threshold for filing a declaration of estimated income tax by regulation and increased the percentage of individual income tax that must be remitted by means of estimated or withholding payments, or both, for individuals from 80% to 90%. These regulations set the filing threshold for filing a declaration of estimated income tax at any amount of estimated tax greater than \$150 and provide guidance as to when the addition to tax for the underpayment of estimated income tax is applicable.

These regulations were initially adopted on an emergency basis and are now being submitted for formal public comment under the provisions of the Administrative Process Act.

VR 630-2-490.1. Definitions.

~~§ 630-2-490.1~~ VR 630-2-490.1 Definitions.

For the purpose of these regulations and unless otherwise required by the context, the following words and terms, when used in these regulations, shall have the

following meaning unless the context clearly indicates otherwise:

"Taxable year" means an individual's taxable year for federal income tax purposes.

"Commissioner" means the Tax Commissioner.

"Estimated tax" means the amount which an individual reasonably estimates to be the income tax due for the taxable year, less the amount estimated to be the sum of any credits allowable against the tax (including, but not limited to, amounts withheld under § 58.1-460 et. seq. of the Code of Virginia).

"Taxable income" means an individual's federal adjusted gross income for the taxable year with the additions, subtractions, deductions and other modifications and adjustments set forth in Va. Code § 58.1-322 § 58.1-322 of the Code of Virginia and regulations promulgated thereunder.

"Taxable year" means an individual's taxable year for federal income tax purposes.

"Virginia adjusted gross income" means federal adjusted gross income (FAGI) for the taxable year plus the addition additions set forth in Va. Code § 58.1-322B subsection B of § 58.1-322 of the Code of Virginia, and less the subtractions set forth in Va. Code § 58.1-322C and the additional \$400 deduction for taxpayers over 65 years of age subsection C of § 58.1-322 of the Code of Virginia and the additional deduction set forth under subdivision 2(b) of subsection D of § 58.1-322 of the Code of Virginia

"Estimated tax" means the amount which an individual estimates to be the income tax due for the taxable year, less the amount estimated to be the sum of any credits allowable against the tax.

"Commissioner" means the State Tax Commissioner.

VR 630-2-490.2. Declarations of Estimated Tax.

§ 630-2-490.2 VR 630-2-490.2. Declarations of estimated tax.

A. § 1. Requirement of declaration.

1. A. Every resident and nonresident individual shall make a declaration of his estimated tax for every taxable year, if his Virginia adjusted gross income, other than from wages on which tax is withheld under Va. Code § 58.1-460 et. seq. and Virginia Income Tax Withholding Regulations, § 630-6-460 et seq. (the "Withholding Requirements"), can reasonably be expected to exceed \$400 plus the sum of the personal exemptions to which he is entitled. In other words, a declaration is required if (i) the amount of Virginia adjusted gross income from which no tax is withheld is greater than (ii) the sum of \$400 and the personal exemptions to which the taxpayer is entitled.

estimated tax, as defined in VR 630-2-490.1, is greater than \$150. This requirement of declaration is in effect throughout the entire taxable year.

2. B. A taxpayer is not required to file a declaration if:

1. His estimated tax is \$150 or less; or

a. 2. He is single and his expected Virginia adjusted gross income is less than ~~\$3,000~~ \$5,000; or

b. 3. He is married and the combined expected Virginia adjusted gross income of the couple is less than ~~\$3,000~~ \$8,000; or

e. 4. He is not required to file a Virginia income tax return pursuant to the provisions of Va. Code § 58.1-342 § 58.1-342 of the Code of Virginia.

EXAMPLE 1: Taxpayer A is employed to render domestic service in the local chapter of a college fraternity. The wages he receives are not subject to withholding: Va. Code § 58.2-460 2 under subdivision 2 of § 58.1-460 of the Code of Virginia. His only other income consists of interest and dividend payments. His total Virginia adjusted gross income for his the taxable year is expected to exceed \$10,000 be less than \$5,000. Because his estimated Virginia adjusted gross income exceeds \$400 plus his one Virginia personal exemption (\$600), he must file a declaration will be less than the minimum amount specified under § 58.1-321 of the Code of Virginia subjecting him to taxation, he is not required to file a declaration.

EXAMPLE 2: Assume that Taxpayer A, in addition to his income above, also works in the local grocery store and taxes are withheld from his wages. However, as in Example 1, his Virginia adjusted gross income on which taxes are not withheld (from domestic service, interest and dividends) is expected to exceed \$10,000 for the taxable year, which is greater than \$400 plus his one personal exemption of \$600. Therefore, he must file a declaration. His total Virginia adjusted gross income from both jobs exceeds \$5,000 for the year. Therefore, he is subject to taxation and is required to file a return. If his estimated tax for the year exceeds his withholding and any other credits by more than \$150, he must file a declaration of estimated tax.

B. § 2. Contents of declaration.

In the declaration required under subsection A § 1 the individual shall state:

1. The amount which he estimates as the amount of individual income tax for which he will be liable for the taxable year;

2. The amount, if any, which he estimates will be

Proposed Regulations

withheld from wages for the taxable year under the ~~Withholding Requirements~~ as required by § 58.1-460 et seq. of the Code of Virginia ;

3. The excess of the amount estimated under ~~paragraph subdivision 1 of this subsection~~ section over the amount estimated under ~~paragraph subdivision 2 of this subsection~~ section shall be considered the estimated tax for the taxable year to be paid by the individual as hereinafter provided; and

4. Such other information as may be required by the Commissioner. Form 760ES is currently in use for this purpose.

C. § 3. Joint declaration by husband and wife.

A husband and wife may file a joint declaration, in which case the liability with respect to the estimated tax shall be joint and several. A joint declaration may not be made: (i) if either the husband or the wife is a nonresident of Virginia unless both are required to file an individual income tax return, (ii) if they are separated under a decree of divorce or of separate maintenance, or (iii) if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them as they mutually agree.

D. § 4. Time for filing declaration.

A declaration of estimated tax of an individual other than a farmer or fisherperson ~~fisherman~~ shall be filed on or before May 1 of the taxable year, except that if the requirements of ~~subsection A § 1~~ are met for the first time:

1. After April 15 and before June 2 of the taxable year, the declaration shall be filed on or before June 15, or
2. After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15, or
3. After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding year.

E. § 5. Declaration of estimated tax by a farmer or fisherperson ~~fisherman~~ .

If at least two-thirds of a self-employed individual's total estimated gross income for the taxable year is from farming (including oyster farming) or fishing, the declaration of estimated tax may be filed at any time on or before January 15 of the succeeding year, instead of the time otherwise prescribed. However, if the income tax return for the taxable year is filed on or before March 1

of the succeeding year and the total tax is paid at that time, the return will be considered a timely declaration and payment of the January 15 installment under the provisions of ~~subsection H § 7~~ below.

A person farming or fishing for a living whose services are legally subject to the will and control of an employer, whether paid by salary or commission, or in cash, fish or produce, is an employee and not a self-employed person. If there is no withholding the employee is subject to the same estimated tax requirements *set forth in § 4* as any other employee .

F. Declaration of estimated tax of forty dollars or less.

A declaration of estimated tax of an individual having a total estimated tax for the taxable year of \$40 or less may be filed at any time on or before January 15 of the succeeding year, but the entire amount of estimated tax must be paid at the time of filing. However, if the income tax return for such taxable year is filed on or before March 1 of the succeeding year and the total tax is paid at that time, the return will be considered a timely declaration and payment of the January 15 installment under the provisions of ~~subsection H~~ below.

G. § 6. Amendments of declaration.

An individual may amend a declaration at any time throughout the year by increasing or decreasing the amount of installment payment noted on the payment-voucher form accompanying the payment.

H. § 7. Return as declaration or payment.

If on or before March 1 of the succeeding taxable year an individual files his return for the taxable year for which the declaration is required, and pays ~~therewith~~ the full amount of the tax shown to be due on the return:

1. Such return shall be considered as his declaration if no declaration was required to be filed during the taxable year, but is otherwise required to be filed on or before January 15.
2. Such return and payment shall be considered as the last installment of estimated tax which would otherwise have been payable on or before January 15.

Filing a return on or before March 1 of the succeeding taxable year or filing a declaration or payment of the last installment on January 15 will not relieve a taxpayer of liability for ~~additions~~ the addition to tax for the underpayment of any of the installments of estimated tax that were due on May 1, June 15 or September 15 of the taxable year.

EXAMPLE 1: Taxpayer A discovers on September 15, ~~1983~~ 1988, that his expected Virginia adjusted gross income estimated tax for calendar year ~~1983~~, other than from his taxes, will exceed \$400 plus his personal

exemptions 1988 will exceed \$150 . Taxpayer is required to file his declaration by January 15, 1984 1989 , but by filing his 1983 1988 income tax return on or before March 1, 1984 1989, and paying in full his tax liability shown on the return, Taxaper is deemed to have timely filed the declaration required by Va. Regs. § 630-2-490.2D(3) subdivision 3 of § 4 .

EXAMPLE 2: Taxpayer A makes the same discovery but on September 1, 1983 1988 . He must file his declaration on or before September 15, 1983 1989 . His second installment would be due January 15, 1984 1989 . (See Va. Regs. § 630-2-491A.3. VR 630-2-491 A 3). However, because he files his 1983 1988 return on February 28, 1984 1989, accompanied by payment in full of his 1983 1988 liability, he is deemed to have timely made the filing/payment of his second installment.

I. § 8. Fiscal year.

This section regulation shall also apply to a taxable year other than a calendar year by substituting the corresponding fiscal year months . In the case of a fiscal year: the 15th day of the fourth month shall be substituted for May 1; the 15th day of the sixth month shall be substituted for June 15; the 15th day of the ninth month shall be substituted for September 15 and the 15th day of the first month of the succeeding taxable year shall be substituted for January 15.

EXAMPLE: Taxpayer F is a fiscal year taxpayer whose taxable year ends on June 30. His income tax return is due on October 15 (15th day of the fourth month following the close of his taxable year). His estimated payments are due on October 15, December 15, March 15 and July 15 of the succeeding taxable year.

J. § 9. Short taxable year.

A separate declaration must be filed where a return is required for a period of less than 12 months, unless the short period is less than four months or the requirements to file are first met after the first day of the last month in the short taxable year. In the case of a decedent, no declaration need be filed after the date of death. The decedent's estate, however, may be liable to file a declaration of estimated tax (See VR 630-5-490).

For the purpose of determining whether a declaration must be filed for a short taxable period which results from a change in annual accounting period, taxable income the tax for the short period shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing the result by the number of months in the short period.

K. § 10. Declaration for individual under a disability.

The declaration of estimated tax for an individual who

is unable to make a declaration by reason of any disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the care of his person or property (other than a receiver in possession of only a part of his property), or by his duly authorized agent.

VR 630-2-492. Failure by Individual to Pay Estimated Tax.

§ 630-2-492 VR 630-2-492 . Failure by individual to pay estimated tax.

A. § 1. Additions to the tax.

In the case of any underpayment of estimated tax by an individual, except as provided in subsection D § 4 , there shall be added to the individual income tax for the taxable year an amount determined at the rate established for interest, under Va. Code § 58.1-15 § 58.1-15 of the Code of Virginia upon the amount of the underpayment (determined under subsection B § 2), for the period of the underpayment (determined under subsection C § 3). The amount of such addition to the tax shall be reported and paid at the time of filing the individual income tax return for the taxable year.

B. § 2. Amount of underpayment.

For purpose of subsection A § 1 , the amount of the underpayment shall be the excess of:

1. The amount of the installment which would be required to be paid if the estimated tax were equal to 80% 90% (66-2/3% in the case of a self-employed farmer or fisherperson fisherman referred to in Va. Regs. § 630-2-490.2E § 5 of VR 630-2-490.2) of the tax shown on the individual income tax return for the taxable year, or if no return was filed, 80% 90% (66-2/3% in the case of self-employed farmers or fisherpersons fishermen referred to in Va. Regs. § 630-2-490.2E § 5 of VR 630-2-490.2) of the tax for such year, over

2. The amount, if any, of the installment paid on or before the last date prescribed for such payment.

D. § 3. Period of underpayment.

The period of the underpayment shall run from the date the installment was required to be paid to the earlier of the following dates:

1. May 1, if a calendar year, or the 15th day of the fourth month following the close of the taxable year, if a fiscal year; or

2. With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph subdivision , a payment of estimated tax on any installment date shall be considered a

Proposed Regulations

payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subsection B-1 subdivision 1 of § 2 for such installment date.

EXAMPLE 1: Taxpayer C filed her return for taxable year 1983 on May 1, 1984 showing a tax liability of \$10,000. She had paid \$1,500 of estimated tax on each of May 1, June 15 and September 15, 1983 and January 15, 1984, and had made no other payments before the return was filed. Because each \$1,500 payment was less than 80% of \$2,500 (one quarter of the tax shown as due on the return), addition to tax is applicable to each underpayment on each installment date, computed as follows (and assuming an annual interest rate of 12%):

Amount of each underpayment installment:	
80% of \$2,500 -	\$2,000
minus less installment paid	<u>1,500</u>
	\$ 500
1st installment period: 5/1/83 to 5/1/84	\$60.00
(12% of \$500)	
2nd installment period: 6/15/83 to 5/1/84	52.50
(10.5% of \$500)	
3rd installment period: 9/15/83 to 5/1/84	37.50
(7.5% of \$500)	
4th installment period: 1/15/84 to 5/1/84	<u>17.50</u>
(3.5% of \$500)	
Total addition to tax	\$167.50

EXAMPLE 1: Taxpayer C filed her return for taxable year 1988 on May 1, 1989, showing a tax liability of \$10,000. She had previously paid \$1,500 of estimated tax on each of May 1, June 15 and September 15, 1988, and January 15, 1989, and made no other payments before the return was filed. Because each \$1,500 payment was less than 90% of \$2,500 (one-quarter of the tax shown as due on the return), the addition to the tax applies to each underpayment on each installment date, computed as follows (and assuming an annual interest rate of 12%):

Amount of each underpayment installment:	
90% of \$2,500-	\$2,250
less installment paid	<u>1,500</u>
	\$ 750
1st installment-period: 5/1/88 to 5/1/89	\$ 90
(12% X 365/365 X \$750)	
2nd installment-period: 6/15/88 to 5/1/89	\$ 78.75
(12% X 320/365 X \$750)	
3rd installment-period: 9/15/88 to 5/1/89	\$ 56.25
(12% X 228/365 X \$750)	
4th installment-period: 1/15/89 to 5/1/89	<u>26.25</u>
(12% X 106/365 X \$750)	
Total addition to tax	\$ 251.25

EXAMPLE 2: Taxpayer had a total tax liability of \$5,000, 80% 90% (or \$4,000 \$4,500) of which would be due in quarterly installments of \$1,000 \$1,125 each. He made payments as follows: \$200 on May 1, \$800 on June 15, ~~\$2,500~~ \$3,000 on September 15 and \$0 by on January 15. The ~~\$1,500~~ \$1,875 overpayment from September 15 would be applied to the other quarterly underpayments in the following order and amounts:

\$800 \$925 to May 1, \$100 \$325 to June 15, and \$500 \$625 to January 15.

D. § 4. Exception.

A. Notwithstanding the provisions of the preceding subsections A, B and C sections , the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser: the amount which would be required to be paid on or before such date if the estimated tax were any of the following:

1. The amount which would have been required to be paid on or before such date if estimated tax were whichever of the following is the least:

a. 1. The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months, or

b. 2. An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year, or

e. 3. An amount equal to 80% 90% (66-2/3% in the case of self-employed farmers or fisherpersons fishermen referred to in Va. Regs. § 630-2-490.2E § 5 of VR 630-2-490.2) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this paragraph subdivision the taxable income shall be placed on an annualized basis by:

(i) a. Multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

(ii) b. Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

(iii) c. Deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment); or

2. 4. An amount equal to 90% of the tax computed, at

the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The periods involved, for a calendar year taxpayer, are January 1 to April 30, January 1 to May 31, and January 1 to August 31. Virginia taxable income for the applicable period is computed as follows: there is subtracted from the federal adjusted gross income for the 4, 5 or 8 month four, five or eight month period, as applicable, (i) the Virginia subtractions specified in Va. Code § 58.1-322 § 58.1-322 of the Code of Virginia , (ii) the greater of itemized deductions or standard deduction, (iii) child and dependent care deduction, and (iv) the dollar amount of exemptions claimed on the return; and there is added to federal adjusted gross income the Virginia additions specified in Va. Code § 58.1-322 § 58.1-322 of the Code of Virginia . Virginia income tax is calculated on the resulting Virginia taxable income. If the estimated tax installment relating to the period is at least 90% of such tax, no addition to tax is required.

3. B. Examples.

a. 1. Taxpayer E filed a return for calendar year 1982 1987 showing a tax liability of \$4,750. For calendar year 1983 1988 E made timely estimated tax payments which, together with withholding payments, totalled \$4,750. E's return for calendar year 1983 1988 revealed a total tax liability of \$6,000, which was underpaid by \$1,250 or more than 20% 10% . However, because E's withholding and timely estimated tax payments for calendar year 1983 at least equalled the tax shown on his 1982 return, the exception in Va. Regs. § 630-2-402D.1.a applies and no addition to the tax will be imposed. Since the total amount of estimated tax paid by each installment date equalled the amount that would have been required to be paid on or before each of such dates if the estimated tax were the tax shown on the return for the preceding year, the exception in § 4 A.1 applies and no addition to the tax will be imposed.

b. 2. Assume the same facts as in Example a 1 except that Taxpayer E adopted a daughter and son on January 1, 1983 1988, and made estimated tax payments in calendar year 1983 1988 totalling \$4,700. The exception of Va. Regs. § 630-2-402D.1.a. under § 4 A.1 does not apply because the 1983 1988 estimated tax payments are less than the tax shown on his 1982 1987 return. However, Va. Regs. § 630-2-402D.1.b § 4 A.2 permits E to recalculate his 1982 1987 tax liability using his two additional \$600 \$700 exemptions. Assuming that E has reached the 5.75% tax bracket, the \$1,200 \$1,400 would yield tax savings of \$60 \$80.50 (5.75% of \$1,200 \$1,400). The \$60 \$80.50 tax savings would reduce his recomputed 1982 1987 tax liability to \$4,681 \$4,669.50 . Because the total amount of estimated tax paid by each installment date exceeds the amount which would have had to be paid

on or before each of such dates if the estimated tax were \$4,681 \$4,669.50 , no addition to the tax will be imposed.

e. 3. Taxpayer F's 1982 1987 return revealed a total tax liability of \$830 \$311 , but she qualified for an age credit in the amount of \$830 \$311 so that no tax was due for 1982 1987 . She had one exemption for both 1982 and 1983 1987 and 1988 , and \$100 \$200 in withholding and estimated tax payments were made for calendar year 1983 1988 . Her 1983 1988 tax liability was \$1,000. The exception of Va. Regs. § 630-2-402D.1.a § 4 A.1 does not apply because the 1983 1988 payments are less than the \$830 \$311 tax liability shown on her 1982 1987 return. However, Va. Regs. § 630-2-402D.1.b § 4 A.2 provides an exception because the 1983 1988 payments of \$100 \$200 at least equal the tax (figured using the applicable nonrefundable credits) which would have been due on her 1982 1987 income, using 1983 1988 rates and personal exemptions.

d. Taxpayer G, who claims one exemption and itemizes deductions, made four timely installment payments of estimated tax totalling \$3,000 for calendar year 1984. His calendar year 1984 tax liability was \$5,000 and his receipt of Virginia adjusted gross income accelerated as the year progressed, as the following worksheet illustrates:

	1/1/84 to 4/30/84	1/1/84 to 5/31/84	1/1/84 to 8/31/84
Virginia adjusted gross income	\$15,000	\$27,000	\$64,000
1- Annualized Va. adjusted gross income for period(s) shown	\$46,500	\$64,800	\$46,000
2- Annualized itemized deductions for period(s) shown or Standard Deduction if not itemized	6,000	12,000	9,000
3- Total dollar amount of exemptions	600	600	600
4- Taxable income lines 2 and 3 from 1	39,900	52,200	60,400
5- Virginia tax on the amount shown on line 4	2,074 20% (or 80% of 25%) of line 5-	2,782 40% (or 80% of 50%) of line 5-	4,746 60% (or 60% of 75%) of line 5-
Installments due through the applicable period	\$414.60	\$1,112.80	\$2,648.80
Installments paid through the applicable period	\$975	\$1,950	\$2,925

Because the total of estimated payments through each of the three periods is at least (and, in fact, exceeds) 80% of the tax on the annualized taxable income for the applicable period(s), no addition to tax applies because of

Proposed Regulations

the exception in Va. Regs § 630-2-402D.1.e

4. Taxpayer G, who claims one exemption and itemizes deductions, made four timely installment payments of estimated tax totalling \$4,400 for calendar year 1988. His calendar year 1988 tax liability was \$5,000 and his receipt of Virginia adjusted gross income accelerated as the year progressed, as the following worksheet illustrates:

	1/1/88 to 4/30/88	1/1/88 to 5/31/88	1/1/88 to 8/31/88
Virginia adjusted gross income	\$15,000	\$27,000	\$64,000
1. Annualized Va. adjusted gross income for period(s) shown	\$46,500	\$64,800	\$96,000
2. Annualized itemized deductions for period(s) shown or Standard Deduction if not itemized	6,000	12,000	9,000
3. Total dollar amount of exemptions	800	800	800
4. Taxable income lines 2 and 3 from 1	39,700	52,000	86,200
5. Virginia tax on the amount shown on line 4	2,048	2,755	4,722
	22.5% (or 90% of 25%) of line 5:	45% (or 90% of 50%) of line 5:	67.5% (or 90% of 75%) of line 5:
Installments due through the applicable period	\$460.80	\$1,239.75	\$3,187.35
Installments paid through the applicable period	\$1,100	\$2,200	\$3,300

Because the total of estimated payments through each of the three periods is at least (and, in fact, exceeds) 90% of the tax on the annualized taxable income for the applicable period(s), no addition to tax applies because of the exception in § 4 A.3.

e. 5. Taxpayer H who is single, claims one exemption and itemizes deductions, had \$100,000 of federal adjusted gross income for calendar year ~~1982~~ 1989 and a tax liability of \$5,000. H expected her income to be \$70,000 and had paid estimated tax in four \$975 installments. Her calendar ~~1982~~ year 1988 tax liability was \$4,000. As the following worksheet illustrates, her estimated tax payment for each of the 4, 5, and 8 month four, five and eight month periods is at least (and, in fact, exceeds) 90% of the tax liability for the applicable period and no addition to tax applies because of the exception in Va. Regs. § 630-2-402D.2 § 4 A.4 .

	1/1/83 to 4/30/83	1/1/83 to 5/31/83	1/1/83 to 8/31/83
1. Federal AGI for period(s) shown	\$17,500	\$29,000	\$69,000

2. a. Add Virginia additions and/or			
b. Subtract Virginia subtractions for period(s) shown	2,000	2,000	3,000
3. Subtract			
a. Itemized deductions for period(s) shown, or (if greater)			
b. Standard Deduction on the income shown	2,000	5,000	6,000
4. Subtract Child and Dependent Care Deduction for the period(s) shown	0	0	0
5. Subtract dollar amount of exemptions	600	600	600
6. Virginia taxable income for period(s) shown	12,900	21,400	59,400
7. Virginia tax on amounts shown on line 6	522	1,010	3,196
8. 90% of line 7	470	909	2,876
9. Installments paid through the applicable period	975	1,950	2,925

	1/1/89 to 4/30/89	1/1/89 to 5/31/89	1/1/89 to 8/31/89
1. Federal AGI for period(s) shown	\$17,500	\$29,000	\$69,000
2. a. Add Virginia additions and/or			
b. Subtract Virginia subtractions for period(s) shown	-2,000	-2,000	-3,000
3. Subtract			
a. Itemized deductions for period(s) shown, or (if greater)			
b. Standard Deduction on the income shown	-2,000	-5,000	-6,000
4. Subtract Child and Dependent Care Deduction for the period(s) shown	- 0 -	- 0 -	- 0
5. Subtract dollar amount of exemptions	-800	-800	-800
6. Virginia taxable income for period(s) shown	12,700	21,200	59,200
7. Virginia tax on amounts shown on line 6	505	969	3,154
8. 90% of line 7	455	872	2,839
9. Installments paid through the applicable period	975	1,950	2,925

E. § 5. Application of section in case of tax withheld on wages.

For purposes of applying this section:

1. The estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under Va. Code § 58.1-480 § 58.1-480 of the Code of Virginia and its regulations (relating to tax withheld at source on wages), and

2. The amount of the credit allowed under Va. Code § 58.1-480 § 58.1-480 of the Code of Virginia and its regulations (dealing with withheld amounts credited to individual taxpayer) for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under Va. Code § 58.1-491 § 58.1-491 of the Code of Virginia and its regulations) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

F. § 6. Short taxable year.

1. A. In any case in which the taxable year for which an underpayment of estimated tax exists is a short taxable year due to a change in annual accounting periods, in determining the tax (i) shown on the return for the preceding taxable year (for purposes of Va. Code § 58.1-492D.1.a subdivision 1(a) of subsection D of § 58.1-492 of the Code of Virginia), (ii) based on the personal exemptions and rates for the current taxable year but otherwise on the basis of the facts shown on the return for the preceding taxable year, and the law applicable to such year (for purposes of Va. Code § 58.1-492D.1.b subdivision 1(b) of subsection D of § 58.1-492 of the Code of Virginia), the tax will be reduced by multiplying it by the number of months in the short taxable year and dividing the resulting amount by 12.

2. B. If the taxable year for which an underpayment of estimated tax exists is a short taxable year due to a change in annual accounting periods, in annualizing the income for the months in the taxable year preceding an installment date, for purposes of Va. Code § 58.1-492D.1.c subdivision 1(c) of subsection D of § 58.1-492 of the Code of Virginia , the personal exemptions allowed as deductions shall be prorated by multiplying such deduction by the ratio of months in the short taxable year to 12 months.

3. C. If "the preceding taxable year" referred to in Va. Code § 58.1-492D.1.b subdivision 1(b) of subsection D of § 58.1-492 of the Code of Virginia was a short taxable year, for purposes of determining the applicability of the exception described in Va. Code § 58.1-492D.1.b subdivision 1(b) of subsection D of § 58.1-492 of the Code of Virginia , the tax, computed on the basis of the facts shown on the return for the preceding year, shall be the tax computed in the manner described in Va. Regs § 630-2-340 VR 630-2-340 . If the tax rates or the taxpayer's status with respect to personal exemptions for the taxable year with respect to in which the underpayment occurs differs from

such rates or status applicable to the preceding taxable year, the tax determined in accordance with this subparagraph subsection shall be recomputed to reflect the rates and status applicable to the year with respect to in which the underpayment occurs.

* * * * *

Title of Regulations: Fiduciary Estimated Tax.

VR 630-5-490. Definitions, Declaration.

VR 630-5-491. Installment Payments.

VR 630-5-492. Additions to the Tax.

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

Public Hearing Date: November 15, 1988 - 10 a.m.

(See Calendar of Events section
for additional information)

Summary:

These three regulations explain the new requirements for estates and trusts to make installment payments of estimated income tax. Generally, the regulations follow the requirements for individual taxpayers.

VR 630-5-490 interprets § 58.1-490 of the Virginia Code and explains when an estate or trust is required to make a declaration of estimated tax. A trust is required to make a declaration if it will have a Virginia income tax liability of more than \$150 for the taxable year. An estate is required to make a declaration if it will have a Virginia income tax liability of more than \$150 for the taxable year and the taxable year ends more than two years after the date of death of the decedent.

VR 630-5-491 interprets § 58.1-491 of the Virginia Code and explains when installment payments of estimated tax must be made. In most cases four installment payments must be made.

VR 630-5-492 interprets § 58.1-492 of the Virginia Code and explains when an addition to the tax is required for underpayment of estimated tax, how to compute the addition, and how to determine if the estate or trust qualifies for an exception to imposition of the addition.

VR 630-5-490. Definitions, Declaration.

§ 1. Definitions.

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

"Estimated tax" means the amount which the fiduciary reasonably estimates to be the income tax due for the taxable year, less the amount estimated to be the sum of any credits allowable against the income tax. For this

Proposed Regulations

purpose, the refund of an overpayment of income tax which the fiduciary directs to be applied toward the estimated tax for the succeeding taxable year shall be considered an installment payment of estimated tax and not a credit against the income tax.

"Fiduciary" means the person who is required to file federal and Virginia income tax returns for the estate or trust, including the trustee of a trust and the executor or personal representative of an estate.

"Taxable year" means the taxable year of the estate or trust for federal income tax purposes.

§ 2. Declarations of estimated tax.

A. Requirement.

1. If the estimated tax is greater than \$150, the fiduciary shall make a declaration of estimated tax for (i) any taxable year of an estate which ends two or more years after the date of death of the decedent; and (ii) every taxable year of a trust.

2. Examples.

a. Decedent A died on September 1, 1986. For the taxable year 1988 the executor of A's estate expects to receive \$10,000 income which will not be used to meet administrative expenses or distributed to the beneficiaries. The executor must file a declaration because the fiduciary income tax due on \$10,000 will exceed \$150 and the end of the taxable year, December 31, 1988, is more than two years after the date of death of the decedent.

b. The ABC trust expects to receive \$10,000 income in 1988 but under the terms of the trust instrument the trustee is required to distribute all income to the beneficiaries. No declaration is required because the trustee's fiduciary income tax liability will be zero.

c. Same facts as in example b except that the beneficiaries are minors. The trustee may accumulate income during the minority of the beneficiaries, and anticipates doing so. The trustee must file a declaration because the trustee's fiduciary income tax on \$10,000 will exceed \$150.

B. Contents.

The declaration shall state the amount which the fiduciary reasonably estimates is the income tax for which the estate or trust will be liable for the taxable year.

C. Time for filing.

1. If the requirements of subsection A are met on or before April 15, then the fiduciary shall file the declaration on or before May 1 of the taxable year.

2. If the requirements of subsection A are met for the first time after April 15 and before June 2, then the fiduciary shall file the declaration on or before June 15 of the taxable year.

3. If the requirements of subsection A are met for the first time after June 1 and before September 2, then the fiduciary shall file the declaration on or before September 15 of the taxable year.

4. If the requirements of subsection A are met for the first time after September 1 of the taxable year, then the fiduciary shall file the declaration on or before January 15 of the succeeding year.

5. If the estate or trust has a taxable year other than a calendar year then the declaration shall be due on the fifteenth day of the fourth, sixth, or ninth month of the taxable year or on the fifteenth day of the first month of the succeeding taxable year, as appropriate.

6. Examples.

a. On April 15, 1988, the fiduciary of the ABC trust expects to receive \$25,000 income in 1988. Under the terms of the trust instrument the fiduciary is required to distribute all income to adult beneficiaries, but may accumulate the income of a minor beneficiary. There are two adult beneficiaries and no minor beneficiaries. No declaration is required because the trust's estimated tax liability is zero.

b. Same facts as in example a except that as a result of the beneficiaries on August 1, 1988, a minor has become a beneficiary and the fiduciary anticipates accumulating the income of the minor. The minor's share of income for the remaining five months of the taxable year will be 1/2 of 5/12 of \$25,000 or \$5,208. The trust's estimated tax on \$5,208 is more than \$150, therefore, a declaration must be filed on or before September 15, 1988.

D. Amendments.

A fiduciary may amend a declaration at any time throughout the year by increasing or decreasing the amount of any installment payment of estimated tax and reporting the changed amount on the payment-voucher form accompanying the installment payment.

E. Return as declaration or payment.

1. If on or before March 1 of the succeeding taxable year a fiduciary files the return for the estate or trust for the taxable year for which a declaration is required under subsection A, and pays the full amount of the tax shown to be due on the return: (i) such return shall be considered as the declaration if no declaration was required to be filed during the taxable year, but is otherwise required to be filed on

or before January 15; and (ii) such return and payment shall be considered as the last installment payment of estimated tax which would otherwise have been payable on or before January 15.

2. Filing a return on or before March 1 of the succeeding taxable year or filing a declaration or payment of the last installment on January 15 will not relieve a taxpayer of liability for additions to tax for underpayment of any of the installments of estimated tax that were due on May 1, June 15, or September 15 of the taxable year.

F. Short taxable year.

1. A declaration must be filed if a return is required for a period of less than 12 months, unless the short period is less than four months or if the requirements of subsection A are first met after the first day of the last month in the short taxable period.

2. For the purpose of determining whether the estimated tax exceeds \$150, the estimated tax for the short taxable period shall be placed on an annual basis by multiplying the estimated tax for the short taxable period by 12 and dividing the result by the number of months in the short taxable period.

VR 630-5-491. Installment Payments.

§ 1. Due dates and amounts.

The estimated tax shown on the declaration shall be paid in equal installments as follows:

1. If the declaration is filed on or before May 1 of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time the declaration is filed and the second, third and fourth installments shall be paid on the following June 15, September 15, and January 15, respectively.

2. If the declaration is not required to be filed on or before May 1 of the taxable year, and is filed after May 1 but on or before June 15 of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time the declaration is filed and the second and third installments shall be paid on the following September 15 and January 15, respectively.

3. If the declaration is not required to be filed on or before June 15 of the taxable year, and is filed after June 15 but on or before September 15 of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time the declaration is filed and the second installment shall be paid on the following January 15.

4. If the declaration is not required to be filed on or

before September 15 of the taxable year, and is filed after September 15, the estimated tax shall be paid in full at the time the declaration is filed.

5. If the declaration is filed after the due date, including cases where an extension of time has been granted, subdivisions 2, 3 and 4 of this section shall not apply. All installments of estimated tax which would have been due if the declaration had been timely filed shall be paid at or before the time of filing. The remaining installments shall be paid when, and in the amounts which, they would have been payable if the declaration had been filed when due.

6. Examples.

a. On April 15, 1988, the fiduciary of the ABC trust expects to receive \$50,000 income in 1988. Under the terms of the trust instrument the fiduciary is required to distribute all income to adult beneficiaries, but may accumulate the income of a minor beneficiary. There are two beneficiaries, both of whom are adults. No declaration or payment is required on May 1, 1988, because the trust's estimated tax liability is zero. However, as a result of the death of one of the beneficiaries on August 1, 1988, a minor has become a beneficiary and the fiduciary anticipates accumulating the income of the minor. The minor's share of income for the remaining five months of the taxable year will be $\frac{1}{2}$ of $\frac{5}{12}$ of \$50,000 or \$10,417. The trust's estimated tax on \$10,417 is \$391 for the taxable year which must be paid in installments, one-half on or before September 15, 1988, and the remaining half on or before January 15, 1989.

b. On April 15, 1988, the fiduciary of Trust DEF expected its estimated tax for 1988 to be \$500. Therefore, a declaration and an installment payment of \$125 were due on May 1, 1988, but were not made. The omission is discovered on September 1, 1988. The first three installments totaling \$375 are due on or before September 15, 1988. The remaining installment of \$125 is due on or before January 15, 1989.

c. Same facts as in example b except that due to a change in circumstances the fiduciary discovers on August 31 that the estimated tax for 1988 should be \$2,000 instead of \$500. The first three installments totaling \$1,500 are due on or before September 15, 1988, and the remaining installment of \$500 is due on or before January 15, 1989.

§ 2. Amendments of declaration.

If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased (as the case may be) to reflect any increase or decrease in the estimated tax by reason of such amendment. If any amendment is made after September

Proposed Regulations

15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

§ 3. Application to short taxable year.

A. In the case of a short taxable year of an estate or trust for which a declaration is required to be filed the estimated tax shall be paid in equal installments, one at the time of filing the declaration, one on the 15th day of the sixth month of the taxable year and another on the 15th day of the ninth month of such year unless the short taxable year closed during or prior to such sixth or ninth month, and one on the 15th day of the first month of the succeeding taxable year.

B. The provisions of subdivision 5 of § 1 relating to payment of estimated tax in any case in which the declaration is filed after the due date, shall also apply to the payment of the estimated tax for short taxable years.

C. For example, if the short taxable year is the period of 10 months from March 1, 1988, to December 31, 1988, and the declaration is required to be filed on or before June 15, 1988 (the fifteenth day of the fourth month), the estimated tax is payable in four equal installments on June 15 with the declaration, August 15, 1988, November 15, 1988, and January 15, 1989.

§ 4. Fiscal year.

If the estate or trust has a taxable year other than a calendar year then the payments shall be due on the fifteenth day of the fourth, sixth, or ninth month of the taxable year or on the fifteenth day of the first month of the succeeding taxable year, as appropriate.

§ 5. Installments or entire estimated tax paid in advance.

A fiduciary may elect to pay any installment of the estimated tax before the date prescribed for its payment. A fiduciary may also elect to file a declaration of estimated tax in the closing days of a calendar year for the taxable year about to begin, and may pay in full the amount of the estimated tax for such taxable year at the time the declaration is filed.

§ 6. Application of payments.

A. All payments of estimated tax shall be applied toward the income tax liability of the estate or trust for the taxable year. Payments of estimated tax may not be applied toward any other tax or taxable year unless and until an income tax return is filed claiming a refund. In extraordinary circumstances where the fiduciary is not required to file a Virginia income tax return the fiduciary may request a refund of estimated tax.

B. Payments of estimated tax may not be applied toward the income or estimated tax liability of a beneficiary of an estate or trust even if the fiduciary

distributes all or a portion of the distributable net income to the beneficiary after making installment payments of estimated tax.

C. Example: For the calendar year 1988 the trustee anticipates earning \$50,000 income after expenses. The terms of the trust require the trustee to pay \$10,000 annually to the beneficiary and accumulate the balance of the income; however, the trustee is permitted to pay additional sums to the beneficiary if required for the beneficiary's support. Initially, the trustee anticipates that 1988 taxable income will be \$40,000 after the distribution deduction and makes installment payments of estimated tax in the amount of \$407 on May 1, 1988, June 15, 1988, and September 15, 1988. In December the trustee finds it necessary to distribute an additional \$25,000 for the beneficiary's support. The trustee makes no installment payment on January 15, 1989.

1. The trust will have taxable income of \$15,000 after the distribution deduction on which a tax of \$620 will be due. Since the estimated tax payments total \$1,221, the trust will be entitled to a refund of \$601.

2. No part of the trust's estimated tax payments may be transferred to the account of the beneficiary even though \$25,000 of income was distributed to the beneficiary after the trustee had paid estimated tax on it.

§ 7. Credit against estimated tax liability.

If the annual income tax return shows that the estate or trust is entitled to a refund of income tax by reason of overestimating and overpaying estimated tax the fiduciary may elect to have all or a portion of such refund applied to the payment of estimated tax liability for the following taxable year.

VR 630-5-492. Additions to the Tax.

§ 1. Additions to the tax.

A. In the case of an underpayment of any installment of estimated tax by an estate or trust, except as provided in § 4, there shall be added to the income tax for the taxable year an amount determined at the underpayment rate established for interest under § 58.1-15 of the Code of Virginia, upon the amount of the underpayment (determined under § 2), for the period of the underpayment (determined under § 3). The amount of such addition to the tax shall be reported and paid at the time of filing the fiduciary income tax return for the taxable year.

B. For the purpose of computing the addition with respect to an underpayment of the final installment, the underpayment rate which applies to the third month following the end of the taxable year shall apply until the due date of the income tax return. For example, in the case of an estate or trust on a calendar year reporting

for 1988, the underpayment rate in effect for the month of March, 1989, will apply through May 1, 1989, in computing the addition to the tax.

§ 2. Amount of underpayment.

For the purpose of § 1, the amount of the underpayment shall be the excess of:

1. The amount of the installment which would be required to be paid if the estimated tax were equal to 90% of the income tax, whether or not the fiduciary filed a return for such taxable year, over

2. The amount, if any, of the installment paid on or before the last date prescribed for such payment.

§ 3. Period of underpayment.

The period of the underpayment shall run from the date the installment was required to be paid to the earlier of the following dates:

1. May 1, if a calendar year, or the 15th day of the fourth month following the close of the taxable year, if a fiscal year, or

2. With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this subdivision, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subdivision 1 of § 2 for such installment date.

3. Example: The principles of §§ 1, 2 and 3 may be illustrated by the following: On or before May 1, 1988, the trustee of The Jones Trust could reasonably expect the fiduciary's Virginia tax liability for calendar year 1988 to exceed \$150. Therefore, the trustee timely makes four installment payments: \$1,500 on May 1, 1988, and June 15, 1988, and \$2,000 on September 15, 1988, and January 15, 1989. When the fiduciary income tax return is filed on May 1, 1989, the tax liability is \$10,000. The total paid (\$7,000) is less than 90% of the tax (\$9,000). Therefore, an addition to the tax in the amount of \$174.56 is due, computed as follows:

INSTALLMENT	1st	2nd	3rd	4th
AMOUNT OF UNDERPAYMENT				
90% of the tax ÷ 4	2,250.00	2,250.00	2,250.00	2,250.00
Actual Payment	1,500.00	1,500.00	2,000.00	2,000.00
Underpayment	750.00	750.00	250.00	250.00
PERIOD OF UNDERPAYMENT				
Date due	5/1/88	6/15/88	9/15/88	1/15/89

Date Paid	5/1/89	5/1/89	5/1/89	5/1/89
No. of days (total)	365	320	228	106
No. of days underpayment is subject to each rate				
4/1/88-6/30/88 at 10%	60	15	0	0
7/1/88-9/30/88 at 10%	92	92	15	0
10/1/88-12/31/88 at 11%	92	92	92	0
1/1/89-5/1/89 at 11%	121	121	121	106

ADDITION TO THE TAX

4/1/88-6/30/88 at 10%	12.33	3.08	0.00	0.00
7/1/88-9/30/88 at 10%	18.90	18.90	1.03	0.00
10/1/88-12/31/88 at 11%	20.79	20.79	6.93	0.00
1/1/89-5/1/89 at 11%	27.35	27.35	9.12	7.99
Total addition = \$174.56	79.37	70.12	17.08	7.99

§ 4. Exceptions.

A. Notwithstanding the provisions of §§ 1, 2, and 3, the addition to the tax shall not be imposed if the income tax for the taxable year is less than \$150.

B. Notwithstanding the provisions of §§ 1, 2, and 3, the addition to the tax with respect to an underpayment of any installment shall not be imposed if the total payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were any of the following:

1. The tax shown on the return of the estate or trust for the preceding taxable year, if a return showing a liability for tax was filed for the preceding taxable year and such preceding year was a taxable year of 12 months.

2. An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the facts shown on the return for, and the law applicable to, the preceding taxable year.

3. An amount equal to 90% of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. Credits shall not be taken into account when computing the tax on annualized income. For purposes of this subdivision the taxable income shall be placed on an annualized basis by:

a. Multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid, and

b. Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls.

Proposed Regulations

4. An amount equal to 90% of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The periods involved, for a calendar year taxpayer, are January 1 to April 30, January 1 to May 31, and January 1 to August 31. Virginia taxable income for the applicable period is computed in accordance with § 58.1-361 of the Code of Virginia for the four, five or eight month period, as applicable. Credits shall not be taken into account when computing the tax under this subdivision.

C. If a fiduciary has any discretion in distributing or accumulating distributable net income, then for the purposes of the computations under subdivisions 4 B 3 (tax on annualized income) and 4 B 4 (tax on 4, 5, and 8 month period) the income of the trust as of any date shall be reduced by distributions to a beneficiary actually made on or before such date which the fiduciary reasonably expects to be treated as made from distributable net income.

D. If an estate or trust was required to change its taxable year during 1987 to a taxable year ending on December 31, then the estate or trust may qualify for the "prior year alternative" exception in subdivision 4 B 1 under the following conditions:

1. The preceding taxable year was a short taxable year in 1987; and
2. The short taxable year was preceded by a taxable year of 12 months; and
3. The tax shown on the return for the preceding short taxable year is annualized by dividing it by the number of months in the short taxable year and multiplying the result by 12.

E. Examples.

On or before May 1, 1988, the trustee of The Jones Trust could reasonably expect the fiduciary's Virginia tax liability for calendar year 1988 to exceed \$150. Therefore the trustee timely made four installment payments: \$1,500 on May 1, 1988, and June 15, 1988, and \$2,000 on September 15, 1988, and January 15, 1989. When the fiduciary income tax return was filed on May 1, 1989, the tax liability income tax return was filed on May 1, 1989, the tax liability was \$10,000. Although the \$7,000 estimated tax paid is less than 90% of the income tax, an addition to the tax is not required because the trust qualifies for one or more of the exceptions for each installment.

1. The tax for the prior year was \$6,670. The trust would qualify for the first exception (prior year's tax) with respect to the fourth installment as follows:

INSTALLMENT	1st	2nd	3rd	4th
DUE DATE	5/1/88	6/15/88	9/15/88	1/15/89
Payment	1,500.00	1,500.00	2,000.00	2,000.00
Total paid through each installment date	1,500.00	3,000.00	5,000.00	7,000.00
Prior year's tax applicable to each installment	1,667.50	3,335.00	5,002.50	6,670.00
Qualifies for exception?	NO	NO	NO	YES

2. The \$6,670 tax for 1987 was based on taxable income of \$120,085. The tax on \$120,085 at 1988 rates would be \$6,662. The trust would qualify for the second exception (prior year's income at current rates) with respect to the third and fourth installments as follows:

INSTALLMENT	1st	2nd	3rd	4th
DUE DATE	5/1/88	6/15/88	9/15/88	1/15/89
Payment	1,500.00	1,500.00	2,000.00	2,000.00
Total paid through each installment date	1,500.00	3,000.00	5,000.00	7,000.00
Applicable tax on prior year's income at current rates	1,665.50	3,331.00	4,996.50	6,662.00
Qualifies for exception?	NO	NO	YES	YES

3. The 1988 tax of \$10,000 is based on taxable income of \$178,130. After reviewing the records of income, expenses and distributions, the trustee determines that the taxable income is \$40,000 as of April 30, 1988, \$55,000 as of May 31, 1988, and \$115,000 as of August 31, 1988. The trust qualifies for the third exception (annualized income) with respect to the first installment. (Note that this exception cannot be used to avoid the addition for the fourth installment.)

INSTALLMENT	1st	2nd	3rd
DUE DATE	5/1/88	6/15/88	9/15/88
Payment	1,500.00	1,500.00	2,000.00
Applicable dates	4/30/88	5/31/88	8/31/88
Income through date	\$40,000.00	\$55,000.00	\$115,000.00
Annualization factor	3 (12/4)	2.4 (12/5)	1.5 (12/8)
Annualized income	120,000.00	132,000.00	172,500.00
Tax on annualized income	6,657.50	7,345.50	9,676.25
Installment percentage	25%	50%	75%

90% of installment percentage	22.5%	45%	67.5%
Amount required through due date	1,497.94	3,306.38	6,531.47
Actual payments through due date	1,500.00	3,000.00	5,000.00
Qualifies for exception?	YES	NO	NO

4. The trust qualifies for the fourth exception (tax on income over a 4, 5, and 8 month period) with respect to the second installment. (Note that this exception cannot be used to avoid the addition for the fourth installment.)

INSTALLMENT	1st	2nd	3rd
DUE DATE	5/1/88	6/15/88	9/15/88
Payment	1,500.00	1,500.00	2,000.00
Applicable dates	4/30/88	5/31/88	8/31/88
Income through date	\$40,000.00	\$55,000.00	\$115,000.00
Tax on income for period	2,057.50	2,920.00	6,370.00
Amount required through due date	2,057.50	2,920.00	6,370.00
Actual payments through due date	1,500.00	3,000.00	5,000.00
Qualifies for exception?	NO	YES	NO

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.

CHILD DAY-CARE COUNCIL

Title of Regulation: VR 175-01-01. Public Participation Guidelines.

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

Effective Date: October 12, 1988

Summary:

Public participation guidelines to be used by the Child Day-Care Council when developing regulations for child care centers are described. Public comment will be obtained by the following ways: (i) a notice of intent will be published in the Virginia Register; (ii) agencies and associations will be notified and requested to advise their constituency through newsletters, etc.; and (iii) interested parties will be notified through a special mailing.

An ad hoc advisory committee, consisting of people who previously gave input about the regulation, will be formed when appropriate as determined by the nature and scope of the regulation.

VR 175-01-01. Public Participation Guidelines.

PART I. POLICY.

§ 1.1. The council will seek public participation from interested parties prior to formation and during the drafting, promulgation and final adoption process of regulations applicable to child care centers licensed by the Virginia Department of Social Services.

§ 1.2. Purpose.

Section 9-6.14:7.1 of the Code of Virginia, requires each agency to formulate and promulgate public participation guidelines as regulations subject to the Administrative Process Act. The intent of the public participation guidelines is to establish written procedures to solicit input from "interested parties" prior to formation and drafting of the proposed regulations and during the formation, promulgation and final adoption process of the regulations.

This process will be applicable to the development of all regulations as defined by § 9-6.14:4 F of the Administrative Process Act:

"Rule" or "regulation" means any statement of general application, having the force of law, affecting

the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.

PART II. GUIDELINES.

§ 2.1. Notice of intent.

When the council deems it necessary to develop a regulation or make substantial change to regulations, a notice of intent will be published in the Virginia Register, General Notices section. This notice will invite those interested in providing input to notify the council of their interest. Various agencies and associations will be notified and requested to advise their constituency through newsletters, etc. In addition to this notice, known interested parties will be advised, through a special mailing, of the agency's desire to develop a regulation and will be invited to assist the council in developing the regulations or in providing information on how the regulations may affect the consumer.

The notice of intent will include:

1. Subject of the proposed regulation.
2. Identification of the entities that will be affected.
3. Timetable for reaching a decision, if available.
4. Name, address and telephone number of staff person to be contacted for further information.

§ 2.2. Agency advisory list.

As directed by the council, the Department of Social Services will create and maintain current mailing lists of persons/organizations/agencies that are interested in advising and assisting the council in developing regulations or in making substantial changes to existing regulations. From time to time the lists will be reviewed and updated. Each of these persons/organizations/agencies will be sent relevant notices of intent.

§ 2.3. Formation of ad hoc advisory committees.

Whenever appropriate, as determined by the nature and scope of the regulation and the change(s) under consideration, an ad hoc advisory committee may be established to include selected individuals who responded to the notice of intent, newsletter or special mailing and representatives of relevant associations or disciplines.

Committee members will be oriented to the council and program issues, constraints, entities to be affected, program options and time limitations. The committee will discuss the issues and make recommendations which will be considered in the drafting and adoption of regulations. Once the regulations have been developed the committee will review them and continue to participate during the promulgation process.

§ 2.4. Orientation/training.

The department will develop orientation/training materials to be used with members of the ad hoc advisory committee(s) which will include:

1. The responsibility/authority of the council and the Department of Social Services;
2. Orientation to licensing principles and issues; and
3. Method of promulgating regulations.

PART III. BASIS FOR POLICY.

§ 3.1. Chapter 5, Acts of Assembly of 1984, made amendments to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, which included statutory requirements for participation guidelines. These guidelines must be effective before other regulations can be adopted.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

NOTE: The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulations.

Title of Regulation: VR 325-02-1. Game - In General.

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

Effective Date: September 15, 1988

Summary:

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

VR 325-02-1. Game - In General.

§ 3. Recorded wild animal or wild bird calls or sounds prohibited in taking game; coyotes and crows excepted.

It shall be unlawful to take or attempt to take wild animals and wild birds, with the exception of coyotes and crows, by the use or aid or recorded wild animal or wild

bird calls or sounds or recorded or electrically amplified imitation of wild animal or wild bird calls or sounds ; provided, that the use of electronic calls for hunting coyotes requires the written permission of the landowner [; and further provided, that the authority granted by this section for use of electronic calls for the taking of coyotes will expire on June 30, 1990].

§ 23. Animal population control.

Whenever biological evidence suggests that populations of game animals may exceed or threaten to exceed the carrying capacity of a specified range, or whenever the health or general condition of a species, or the threat of human public health and safety indicates the need for population reduction, the director is authorized to issue special permits to obtain the desired reduction during the open season by licensed hunters on areas prescribed by wildlife biologists. Designated game species may be taken in excess of the general bag limits on special permits issued under this section under such conditions as may be prescribed by the director.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: VR 480-03-19. Coal Surface Mining Reclamation Regulations - Remining Areas with Pollutational Discharges.

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

Effective Date: October 12, 1988

Summary:

The adopted amendments set alternate limits for the quality of water discharged from the remining of abandoned areas with existing pollutational discharges. This is to encourage the remining and reclamation of areas disturbed by past mining activities which may not otherwise be reclaimed. The department is also authorized to release the bond of an operator when the area is reclaimed and water quality is improved, or when other environmental benefits result and water quality is not reduced.

§ 480-03-19.700.5. Remining areas with pollutational discharges - definitions.

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

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

Final Regulations

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

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

"Act" means the Virginia Coal Surface Mining Control and Reclamation Act of 1979 as amended (Chapter 19, Title 45.1 of the Code of Virginia).

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

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

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

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

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

other property or material on the surface resulting from, or incident to, surface coal mining and reclamation operations; and the area located above underground workings. The affected area shall include every road used for purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations, unless the road is a public road.

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

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

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

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

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles and coal refuse piles eliminated. Permanent water impoundments may be permitted where the division has determined that they comply with §§ 480-03-19.816.49, 480-03-19.816.56, and 480-03-19.816.133 or 480-03-19.817.49, 480-03-19.817.56, and 480-03-19.817.133.

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

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

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

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

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

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

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

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

(b) Minimize to the extent possible, disturbances, and adverse impacts on fish, wildlife, and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, terms, methods, or techniques which are currently available anywhere as determined by the division even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with parts 480-03-19.816 and 480-03-19.817. Within the constraints of the permanent program, the division shall have the discretion to determine the best technology currently available on a case-by-case basis, as authorized by the Act and this chapter.

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

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

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

"Coal exploration" means the field gathering of: (a) surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or (b) the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of this chapter.

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

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

"Coal mining operation" means, for the purposes of part 480-03-19.705 - Financial Interests of State Employees, the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the areas upon which such activities occur.

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

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

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

"Cognovit note" means an extraordinary note which authorizes an attorney to confess judgment against the person or persons signing it. It is written authority of a debtor and a direction by him for entry of a judgment against him if the obligation set forth in the note is not paid when due. Such judgment may be taken by any person holding the note, which cuts off every defense which maker(s) of the note may otherwise have and it likewise cuts off all rights of appeal from any judgment taken on it. The note shall, at a minimum:

- (a) Contain the date of execution;
- (b) Be payable to the "Treasurer of Virginia;"
- (c) Be due and payable in the event of bond forfeiture of the permit;

Final Regulations

(d) Be payable in a sum certain of money;

(e) Be signed by the maker(s).

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

(a) The deposit of cash in one or more federally-insured accounts, payable only to the division upon demand;

(b) Negotiable bonds of the United States, the Commonwealth of Virginia, or a political subdivision thereof, endorsed to the order of, and placed in the possession of the division; the bond will only be acceptable if the issue is rated "A" or better by Moody's Investor Service, Inc. or Standard and Poor's Inc.;

(c) Certificates of deposit issued by Virginia banks payable only to the division and place in its possession. No security in default as to principal or interest shall be acceptable as collateral.

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

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

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

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

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

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

"Cumulative impact area" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and ground water systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of: (a) the proposed operation, (b) all existing operations, (c) any operation for which a permit application has been submitted to the division, and (d) all operations required to meet diligent development requirements for leased federal coal for which there is actual mine development information available.

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

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

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

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

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

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

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

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

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

"Employee" means (a) any person employed by the department or other state or local government agency who

performs any function or duty under the Act, and (b) consultants who perform any function or duty under the Act, if they perform decision-making functions for the department under the authority of the Act or regulations promulgated under the Act.

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

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

"Excess spoil" means spoil material disposed of in a location other than the mined-out areas; provided that spoil material used to achieve the approximate original contour or to blend the mined-out areas with the surrounding terrain in accordance with §§ 480-03-19.816.102(d) and 480-03-19.817.102(d) in nonsteep slope areas shall not be considered excess spoil.

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

"Extraction of coal as an incidental part" means for the purposes of part 480-03-19.707, the extraction of coal which is necessary to enable the construction to be accomplished. For purposes of part 480-03-19.707, only that coal extracted from within the right-of-way, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of the Act and this chapter.

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

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

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

"Federal lands program" means a program established by the Secretary pursuant to § 523 of the federal act to regulate surface coal mining and reclamation operations on federal lands.

"Federal lease bond" means the bond or equivalent

security required by 43 CFR part 3400 to assure compliance with the terms and conditions of a federal coal lease.

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

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

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

"Fragile lands" means geographic areas containing natural, ecologic, scientific or aesthetic resources that could be damaged beyond a permittee's ability to repair or restore, or be destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may result in flooding, environmental corridors containing a concentration of ecologic and aesthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under § 45.1-252 of the Act and part 480-03-19.761, if those areas have characteristics requiring additional areas for protection or if the buffer zone itself contains fragile resources.

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

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

"General area" means, with respect to hydrology, the topographic and ground water basin surrounding a permit areas and adjacent areas to include one or more watersheds containing perennial streams or ground water zones which possess useable or managed zones or flows, to

Final Regulations

allow an assessment of the probable cumulative impacts on the hydrologic regime.

"Government-financed construction" means construction funded 50% or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds, but shall not mean government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments.

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

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

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

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

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

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

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

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

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

"Historic lands" means historic, cultural, and scientific areas that could be damaged beyond a permittee's ability to repair or restore, or be destroyed by surface coal mining operations. Examples of historic lands include archaeological and paleontological sites, sites listed on a state or national Register of Historic Places, National Historic Landmark sites, sites having religious or cultural significance to native Americans or religious groups, and sites for which historic designation is pending.

"Historically used for cropland" means (1) lands that have been used for cropland for any 5 years or more out of the 10 years immediately preceding the acquisition, including purchase, lease, or option, or the land for the purpose of conducting or allowing through resale, lease, or option the conduct of surface coal mining and reclamation operations; (2) lands that the division determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration, that the permit area is clearly cropland but falls outside the specific 5-years-in-10 criterion, in which case the regulations for prime farmland may be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or (3) lands that would likely have been used as cropland for any 5 out of the last 10 years, immediately preceding such acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land.

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

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

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

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

"Impoundments" means all water, sediment, slurry or other liquid or semi-liquid holding structure and depressions, either naturally formed or artificially built.

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

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

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

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

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

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

(a) *"Cropland"*. Land used for production of crops which can be grown for harvest alone or in a rotation with grasses and legumes, that include row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar crops.

(b) *"Pastureland" or land occasionally cut for hay*. Land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed.

(c) *"Grazingland"*. Lands used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production.

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

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

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

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

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

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

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

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

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

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

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

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

"MSHA" means the United States Mines Safety and

Final Regulations

Health Administration.

"Mineral Leasing Act" or MLA means the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181, et seq.

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

"Mining supervisor" means the area mining supervisor, Conservation Division, U.S. Geological Survey, or district mining supervisor or other subordinate acting under their direction.

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

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

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

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

"Noxious plants" means living plants which are declared to be noxious weeds or noxious plants pursuant to the Virginia Noxious Weed Law, Chapter 17.2, Title 3.1 of the Code of Virginia.

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

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

"Operator" means permittee.

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

outside the permit area.

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

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

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

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

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

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

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

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

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

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

under another permit issued pursuant to this chapter may be excluded from the permit area.

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

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

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

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

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

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

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

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

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

"Precipitation event" means a quantity of water resulting

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

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

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

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

"Professional geologist" means a person who is certified pursuant to Chapter 30, § 54-9645 of Title 54 of the Code of Virginia.

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

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

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

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

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

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

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

"Qualified laboratory" means a designated public agency, private firm, institution, or analytical laboratory which can prepare the required determination of probable hydrologic

Final Regulations

consequences or statement of results of test borings or core samplings under the Small Operator Assistance Program and which meets the standards of § 480-03-10.795.10.

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

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

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

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

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

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

“Regulatory program” means the Virginia Coal Surface Mining Control and Reclamation program (Chapter 19) and rules and regulations approved by the Secretary.

“Remining” means conducting surface coal mining and reclamation operations which affect previously mined areas.

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

“Road” means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches and surface. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal exploration or within the affected area of surface coal mining and reclamation

operations, including use by coal hauling vehicles leading to transfer, processing, or storage areas. The term does not include pioneer or construction roadways used for part of the road construction procedure or roads within the immediate mining pit area, excess spoil fills, or coal processing waste disposal areas.

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

“Secretary” means the Secretary of the Interior or the Secretary’s representative.

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

“Self-bond” as provided by Part 480-03-9.801 means (a) for an underground mining operation, a cognovit note in a sum certain payable on demand to the Treasurer of Virginia, executed by the applicant and by each individual and business organization capable of influencing or controlling the investment or financial practices of the applicant by virtue of this authority as an officer or ownership of all or significant part of the applicant, and supported by a certification that the applicant participating in the Pool Bond Fund has a net worth, total assets minus total liabilities equivalent to \$1 million. Such certification shall be by an independent certified public accountant in the form of an unqualified opinion.

(b) For a surface mining operation or associated facility, an indemnity agreement in a sum certain payable on demand to the Treasurer of Virginia, executed by the applicant and by each individual and business organization capable of influencing or controlling the investment or financial practices of the applicant by virtue of this authority as an officer or ownership of all or a significant part of the applicant.

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

“Significant, imminent environmental harm to land, air, or water resources” means:

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

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

(1) is causing such harm; or,

(2) may reasonably be expected to cause such harm at

any time before the end of the reasonable abatement time that would be set under § 45.1-245B of the Act.

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

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

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

(b) Timber management and silviculture;

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

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

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

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

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

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

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

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

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

"Soil survey" means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in § 480-03-9.785.17(c)(1).

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

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

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

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

"Substantially disturb" means, for purposes of coal exploration, to significantly impact land or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.

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

"Support facilities" means those facilities resulting from, or incident to, an activity identified in paragraph (a) of the definition of "surface coal mining operations" in this section and the areas upon which such facilities are located. Support facilities may consist of, but need not be limited to, the following facilities: mine buildings; bath houses; coal loading facilities; coal crushing and sizing facilities; coal storage facilities; equipment and storage facilities; fan buildings; hoist buildings; sheds, shops, and other buildings; facilities used to treat and store water for

Final Regulations

mine consumption; and railroads, surface conveyors systems, chutes, aerial tramways, or other transportation facilities, but not including roads.

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

"Surface coal mining operations" means:

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

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

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

"Surface mining activities" means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

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

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

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

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

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

"Ton" means 2,000 pounds avoirdupois (.90718 metric ton).

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

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

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

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

"Underground development waste" means waste-rock mixtures of coal, shale, claystone, siltstone, sandstone, limestone, or related materials that are excavated, moved,

and disposed of from underground workings in connection with underground mining activities.

"Underground mining activities" means a combination of:

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

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

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

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

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

"Valid existing rights" means:

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

(b) For haulroads,

(1) a recorded right-of-way, recorded easement or a permit for a coal haulroad recorded as of August 3, 1977, or

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

(c) A person possesses valid existing rights if the person proposing to conduct surface coal mining operations can

demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977. A determination that coal is "needed for" will be based upon a finding that the extension of mining is essential to make the surface coal mining operation as a whole economically viable;

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

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

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

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

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

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

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

§ 480-03-19.785.19. *Remaining areas with pollution Discharges.*

(a) *Scope.* (1) *This section specifies procedures and rules applicable to those who seek authorization to conduct surface coal mining activities on [certain previously mined] areas which have been previously affected by mining activities and where there exists continuing water pollution. Receipt of the authorization entitles a permittee to later request bond release for areas which continue to discharge pollutional material.*

(2) *All provisions of this subchapter apply to authorizations to mine areas with preexisting pollutional discharges except as specifically modified by this section.*

Final Regulations

(b) *Applicability.* No authorization may be granted under this section unless the authorization is part of:

(i) A permit issued after the effective date of this section, or

(ii) A permit revision under § 480-03-19.774.13, but only if the applicant affirmatively demonstrates to the satisfaction of the division that:

(i) The applicant has not caused or contributed to the pollutorial discharges, and

(ii) The applicant has not disturbed the proposed pollution abatement area by surface mining activities.

(c) *Application for authorization.*

(1) An applicant who requests authorization under this section shall, in addition to the general permit application requirements of this subchapter:

(i) Delineate on a map the proposed pollution abatement area, including the location of the preexisting discharges.

(ii) Provide a description of the hydrologic balance for the proposed pollution abatement area that includes:

(A) Results of a detailed water quality and quantity monitoring program, including seasonal variations, variations in response to precipitation events, and baseline pollution loads using this monitoring program.

(B) Monitoring for pH, alkalinity, acidity, total iron, total manganese, sulfates, total suspended solids, and other water quality parameters the division deems relevant.

(iii) Provide a description of the abatement plan that represents best technology and includes:

(A) Plans, cross-sections, and schematic drawings describing the abatement plan proposed to be implemented.

(B) A description and explanation of the range of abatement level that probably can be achieved, costs, and each step in the proposed abatement plan.

(2) An applicant seeking this authorization shall continue the water quality and quantity monitoring program required by subsection (c)(1) after making the authorization request. The applicant shall submit the results of the continuing monitoring program to the division monthly until a decision on the authorization request is made.

(d) *Approval or denial.* (1) No authorization may be granted under this section unless the applicant affirmatively demonstrates to the satisfaction of the division on the basis of information set forth in the application that:

(i) The proposed abatement plan represents best technology.

(ii) The surface mining operation on the proposed pollution abatement area will not cause additional surface water pollution or ground water degradation.

(iii) The requirements of §§ 480-03-19.773.15 and 480-03-19.773.16 that are not consistent with this section have been met.

[(iv) The remaining operation will result in the potential for improved water quality from the remaining operation.]

(2) An authorization may be denied under this section if granting the authorization will, or is likely to, affect a legal responsibility or liability under this chapter, for the proposed abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

(3) No authorization may be granted under this section unless there are one or more preexisting discharges from or on the pollution abatement area.

(4) The authorization allowed under this section is for the pollution abatement area only and does not apply to other areas of the permit.

Part 480-03-19.825.

Special Permanent Program Performance Standards - Remining Areas With Pollutorial Discharges.

§ 480-03-19.825.11. Operational requirements.

A permittee who receives an authorization to mine areas with preexisting pollutorial discharges under § 480-19.785.19 shall comply with the requirements of this subchapter except as specifically modified by this part. The permittee shall also:

(1) Implement the approved water quality and quantity monitoring program for the pollution abatement area until the requirements of § 480-03-19.825.14 are met.

(2) Implement the approved abatement plan.

(3) Notify the division immediately prior to the completion of each step of the abatement plan.

(4) Provide progress reports to the division within 30 days after the completion of each step of the abatement program that all work has been performed in accordance with the terms and conditions of the pollution abatement authorization and the approved maps, plans, cross-sections, and specifications.

§ 480-03-19.825.12. Treatment of discharges.

(a) Except for preexisting discharges from or on the pollution abatement area for which authorization is granted

under § 480-03-19.785.19, the permittee shall comply with §§ 480-03-19.816.42 and 480-03-19.817.42.

(b) The permittee shall treat the preexisting discharges from or on the pollution abatement area for which authorization is granted under § 480-03-19.785.19 to comply with the effluent limitations established by best professional judgment. The effluent limitations established by best professional judgment [may not be less than shall not allow discharge of pollutants in excess of] the baseline pollution load. [Any discharge from or affected by the remaining operation shall be in accordance with the applicable state water quality standards.]

(c) A permittee required to treat preexisting discharges will be allowed to discontinue treating the discharges under subsection (b) when the permittee affirmatively demonstrates to the division that:

(1) The preexisting discharges are meeting the effluent limitations established by subsection (b) as shown by all ground and surface water monitoring conducted by the permittee or the division.

(2) Surface coal mining activities under the permit, including the pollution abatement area, are being or were conducted under the requirements of the permit and the authorization and this subchapter, except as specifically modified by this part.

(3) The permittee has implemented each step of the abatement plan as approved in the authorization.

(d) If after discontinuance of treatment of discharges under subsection (c) the discharges fail to meet the effluent limitations established by subsection (b), the permittee shall reinstitute treatment of the discharges under subsection (b). A permittee who reinstates treatment under this subsection will be allowed to discontinue treatment if the requirements of subsection (c) are met.

(e) Discontinuance of treatment under subsection (c) may not be deemed or construed to be or to authorize a release of bond under § 480-03-19.825.14.

§ 480-03-19.825.13. Request for bond release.

Sections 480-03-19.800.40 and 480-03-19.801.17 and 480-03-801.18 shall apply to the release of bonds for pollution abatement areas except as modified by this part.

§ 480-03-825.14. Criteria And Schedule For Release Of Bonds On Pollution Abatement Areas.

(a) The division will release up to 50% of the amount of bond for the authorized pollution abatement area if the permittee demonstrates and the division finds that:

(1) The surface coal mining activities were conducted on the permit area, including the pollution abatement

area, under the requirements of the permit and the authorization and this chapter, except as specifically modified by this part.

(2) The permittee has satisfactorily completed backfilling, regrading, and drainage control under the approved reclamation plan.

(3) The permittee has properly implemented each step of the pollution abatement plan approved and authorized under this chapter.

(4) The permittee has not caused degradation of the baseline pollution load for a period of a minimum of 6 months prior to the submittal of the request for bond release under this part and until the bond release is approved as shown by all ground and surface water monitoring conducted by the permittee under § 480-03-19.825.11 or conducted by the division.

(5) The permittee has not caused or contributed to additional surface water pollution by re-affecting or mining the pollution abatement area.

(b) The division will release an additional amount not to exceed 35% of the amount of bond for the authorized pollution abatement area if the permittee demonstrates and the division finds that:

(1) The permittee has replaced the topsoil or topsoil substitute, completed final grading, planting and established revegetation under the approved reclamation plan.

(2) The permittee has not caused or contributed to additional surface water pollution by re-affecting or mining the abatement area.

(3) The permittee has complied with either of the following:

(i) Achieved the actual improvement of the baseline pollution load described in the approved abatement plan and shown by all ground and surface water monitoring conducted by the permittee or the division for the period of time provided in the abatement plan after completion of backfilling, final grading, drainage control, topsoiling, and establishment of revegetation.

(ii) Achieved all of the following:

(A) At a minimum has not caused degradation of the baseline pollution load as shown by all ground and surface water monitoring conducted by the permittee or the division for a period of 12 months from the discontinuance of treatment under § 480-03-19.825.12(d), if backfilling, final grading, drainage control, topsoiling, and establishment of revegetation have been completed.

(B) Conducted all measures provided in the approved abatement plan and additional measures specified by the division in writing at the time of initial bond release

Final Regulations

under subsection (a) for the area requested for bond release.

(C) Caused aesthetic or other environmental improvement or the elimination of public health and safety problems by remining and reaffected the pollution abatement area.

(D) Stabilized the pollution abatement area.

(c) The division will release the remaining portion of the amount of bond on the authorized pollution abatement area if the permittee demonstrates and the division finds that:

(1) The permittee has successfully completed all the approved abatement and reclamation plans, and the pollution abatement area is capable of supporting the postmining land use approved under §§ 480-03-19.816.133 and 480-03-19.817.133.

(2) The permittee has complied with the requirements of the permit and the authorization, and this chapter, except as specifically modified by this part.

(3) The permittee has not caused degradation of the baseline pollution load from the time of bond release and subsection (b).

(4) The applicable liability period has expired under [§§ 480-03-19.816.116 and 480-03-19.817.116 § 480-03-19.800.13].

(5) If treatment has been initiated in accordance with § 480-03-19.825.12(d) after bond release under subsections (a) or (b) or this section, the permittee has not caused degradation of the baseline pollution load for a period of five years from the discontinuance of treatment under § 480-03-19.825.12(c).

DEPARTMENT OF MOTOR VEHICLES

REGISTRAR'S NOTICE: The following regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes from Article 2 regulations which are necessary to conform to changes in this Code where no agency discretion is involved. The Department of Motor Vehicles will receive, consider and respond to petitions by any interested persons at any time with respect to reconsideration.

The Department of Motor Vehicles has **REPEALED** the following regulation:

Title of Regulation: Virginia Motor Vehicle Dealer Rules and Regulations.

Statutory Authority: §§ 46.1-26, 46.1-129 and 46.1-520 of the Code of Virginia.

Effective Date: January 1, 1989

Summary:

Modifications made to the Virginia Motor Vehicle Dealer Licensing Act, Chapter 7 (§§ 46.1-515 et seq.) of Title 46.1 of the Code of Virginia, by the 1988 General Assembly resulted in outdating the existing Virginia Motor Vehicle Dealer Rules and Regulations. Certain provisions in the existing regulations that are not essential to the effective administration of the Dealer Licensing Act and not included in the new statutory provisions are contained in other directives which the department has furnished to licensed dealerships.

* * * * *

REGISTRAR'S NOTICE: The following regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes from Article 2 regulations which consist only of changes in style or form or corrections of technical errors and § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes from Article 2 regulations which are necessary to conform to changes in the Code where no agency discretion is involved. The Department of Motor Vehicles will receive, consider and respond to petitions by any interested persons at any time with respect to reconsideration or revision.

Title of Regulation: VR 485-60-8301. Overload Permit Regulations.

Statutory Authority: §§ 46.1-26 and 46.1-339.01 of the Code of Virginia.

Effective Date: October 12, 1988

Summary:

The Overload Permit Regulations are revised only to bring them up to date with changes in legislation since they were last printed. Changes in style and format have also been made in accordance with the Virginia Register Form, Style and Procedure Manual. There are no substantive changes other than those which have been made in response to legislative changes.

VR 485-60-8301. Overload Permit Regulations.

PART I. GENERAL PROVISIONS.

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.

1. "Group of axles" means all of the axles located under a vehicle or combination of vehicles.

2. "Registered gross weight" means the weight for which a vehicle or combination of vehicles is registered or licensed.

"Gross weight limitation" means the maximum gross weight permitted for a vehicle or combination. The maximum permitted weight depends on the number of axles and on the distance between the center of the steering axle and the center of the extreme axle of the vehicle or combination. Permissible gross weights for vehicles without overload permits are set out in the table on page 4 under § 3.1 of these regulations.

3. "Overload permit" means a permit issued by representatives of the Virginia Division Department of Motor Vehicles, the State Corporation Commission and other authorized agents to allow Virginia and foreign based vehicles or combinations of vehicles to exceed the weight limitations otherwise applicable to such vehicles by a certain percentage specified in the permit.

4. "Single axle" means an assembly of two or more wheels whose centers are in one transverse vertical plane or may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

5. "Single axle weight" means the total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart extending across the full width of the vehicle. The maximum single axle weight permitted for any vehicle or combination is 20,000 pounds, or 650 pounds per inch, width of tire, measured in contact with the surface of the highway except where an overload permit has been obtained.

6. "Tandem axle" means any two or more consecutive axles whose centers are more than 40 inches apart but not more than 96 inches apart, and are individually attached to or articulated, or both, from a common attachment to the vehicle including a connection mechanism designed to equalize the load between axles.

7. "Tandem axle weight" means the total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than 40 inches apart and not more than 96 inches apart, extending across the full width of the vehicle. The maximum tandem axle weight permitted for any vehicle or combination is 34,000 pounds (provided that no one axle of such tandem unit may exceed the weight permitted for a single axle), except where an overload permit has been obtained.

§ 1.2. Introduction.

These regulations are made and promulgated pursuant to

Chapters 1.1:1 and 1.2 of Title 9, and Sections §§ 46.1-26 and ~~46.1-330~~, 46.1-339.01 and 46.1-339.02 and related sections of Title 46.1, of the Code of Virginia. In order to make them more complete and usable, they include portions of the pertinent statutes.

§ 1.3. The Department of Motor Vehicles will receive, consider and respond to petitions by any interested person at any time with respect to the reconsideration or revision of these regulations.

PART II. PERMIT REQUIREMENTS.

§ 2.1. These regulations apply to vehicle owners who desire to purchase an Overload Permit to allow their vehicles to exceed gross weight and axle weight limitations.

1. A. Overload Permits are issued for one-year periods and should be purchased annually at the time of vehicle registration. The Overload Permit may also be purchased at the time a quarterly vehicle registration is purchased; however, the entire Overload Permit fee is required, and the permit will be valid for one year.

2. B. The fee to transfer an Overload Permit is \$2.00. Decals ~~must~~ shall be removed from the vehicle and ~~must~~ shall accompany the application for a new Overload Permit.

3. C. Overload Permits will be issued in the same name and for the same vehicle as the vehicle registration.

4. D. No refund of Overload Permit fees will be made.

5. E. The percentage of overload permitted and the cost of the Overload Permit for each percentage are as follows:

<u>OVERLOAD</u>	<u>FEE</u>
1.0%	\$ 35
2.0%	\$ 75
3.0%	\$115
4.0%	\$160
5.0%	\$200

6. F. The Overload Permit applies to the registered gross weight of a power unit, the maximum allowable axle weights of each vehicle in the combination, or both authorizes the operation of the vehicle at weights which exceed the gross weight limitation, single axle weight limit, tandem axle weight limit, or the gross weight for which the vehicle is registered. However, in no case shall the permit allow a vehicle or combination of vehicles to exceed a gross weight of 80,000 pounds. Overload permits will not be issued to vehicles which have a registered gross weight in excess of 76,000 pounds, or less than 7,500 pounds.

G. In addition to the extension of weight limitations

Final Regulations

authorized under subsection F of § 2.1 of these regulations, an additional 5.0% overload shall be permitted for vehicles or combinations of vehicles which have a current overload permit and which are transporting Virginia grown forest or farm products. The products must be in transit from the place where they are first produced, cut, harvested or felled to the location where they will be first processed. This additional extension of weight limitations shall apply to the gross weight limitation, single axle weight limit, tandem axle weight limit, or the registered gross weight limit. However, in no case shall the overload permit allow a vehicle or combination of vehicles to exceed the gross weight limitation plus the percentage of the permit purchased plus the 5.0% allowed under this section. In no case shall the permit allow a vehicle or combination of vehicles to exceed a maximum of 10% overload or to allow a vehicle or combination of vehicles to exceed 80,000 pounds gross weight.

7. H. No vehicle or combination of vehicles is presently authorized to travel upon a federal interstate highway with a single axle weight in excess of 20,000 pounds, a tandem axle weight in excess of 34,000 pounds, or a gross weight in excess of 80,000 pounds or in excess of the federal bridge formula as shown on the chart included in these regulations. Overload permits do not allow vehicles to exceed those federal limitations, which remain in effect until modified by the proper authorities.

8. I. In order to purchase an Overload Permit, the owner of a power unit ~~must~~ shall :

~~(a)~~ 1. Request the permit from the Virginia ~~Division~~ Department of Motor Vehicles, the Virginia State Corporation Commission, or contract agents authorized by the Commissioner of the ~~Division~~ Department of Motor Vehicles;

~~(b)~~ 2. Pay the appropriate fee for the desired percentage of permissible overload; and

~~(c)~~ 3. Furnish, on an application supplied by the issuing agent, the following information for the power unit:

- a. Make;
- b. Identification number;
- c. Current license plate number;
- d. Expiration date;
- e. State of issue; and
- f. Registered gross weight.

9. J. The fee for an initial permit issued on a vehicle may be prorated to the month of the expiration of the vehicle license plates. Any Overload Permit issued thereafter must be purchased at the time of vehicle

registration or re-registration.

10. K. Overload Permits will be in the form of decals, issued in duplicate, and will indicate the percentage of overload purchased. The decals ~~must~~ shall be placed on the vehicle in the following locations:

~~(a)~~ 1. One decal shall be placed on the driver side adjacent to the SCC Permit .

~~(b)~~ 2. The second decal shall be placed on the opposite side (passenger side) in the same approximate area as the first decal.

11. L. Expired decals shall be removed or destroyed.

PART III. GROSS WEIGHT ALLOWED BASED ON AXLE SPACING

§ 3.1. The gross weight imposed upon the highway by a vehicle or combination may not exceed (except where an overload permit has been obtained *and then only on noninterstate highways*), the maximum weight shown below for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot.

DISTANCE IN FEET BETWEEN
THE EXTREMES OF ANY
GROUP OF AXLES

MAXIMUM WEIGHT IN POUNDS
ON ANY GROUP OF AXLES

	<u>2 AXLES</u>	<u>3 AXLES</u>	<u>4 AXLES</u>	<u>5 AXLES</u>	<u>6 AXLES</u>
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	34,000	34,000			
9	39,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000		
13		45,500	50,500		
14		46,500	51,500		
15		47,000	52,000		
16		48,000	52,500	58,000	
17		48,500	53,500	58,500	
18		49,500	54,000	59,000	
19		50,000	54,500	60,000	
20		51,000	55,500	60,500	66,000
21		51,500	56,000	61,000	66,500
22		52,500	56,500	61,500	67,000
23		53,000	57,500	62,500	68,000
24		54,000	58,000	63,000	68,500
25		54,500	58,500	63,500	69,000
26		55,500	59,500	64,000	69,500
27		56,000	60,000	65,000	70,000
28		57,000	60,500	65,500	71,000
29		57,500	61,500	66,000	71,500
30		58,500	62,000	66,500	72,000
31		59,000	62,500	67,500	72,500
32		60,000	63,500	68,000	73,000
33			64,000	68,500	74,000
34			65,000	69,000	74,500
35			65,500	70,000	75,000
36			66,000	70,500	75,500
37			66,500	71,000	76,000
38			67,500	72,000	77,000
39			68,000	72,500	77,500
40			68,500	73,000	78,000
41			69,500	73,500	78,500
42			70,000	74,000	79,000
43			70,500	75,000	80,000
44			71,500	75,500	
45			72,000	76,000	
46			72,500	76,500	
47			73,500	77,500	
48			74,000	78,000	
49			74,500	78,500	
50			75,500	79,000	
51			76,000	80,000	

Final Regulations

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-21-07.03. Nutrient Enriched Waters - Water Quality Standards.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Effective Date: October 12, 1988

Background:

Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

Section 6 of VR 680-14-02, entitled "Policy for Nutrient Enriched Waters," states that the State Water Control Board may entertain petitions from adjoining states to consider rulemaking to control nutrients entering tributaries to "nutrient enriched waters" of the adjoining state.

Summary:

The State of North Carolina, through its Department of Natural Resources and Community Development, petitioned the State Water Control Board to designate the Chowan River Basin as "nutrient enriched waters" pursuant to the board's Policy for Nutrient Enriched Waters, because of documented nuisance algal blooms in the North Carolina portion of the Chowan River resulting from excessive inputs of nutrients. Therefore, the board is proposing to amend the Water Quality Standard for Nutrient Enriched Waters, VR 680-21-07.03, to designate the tidal freshwater portions of the Blackwater River and Nottoway River as "nutrient enriched waters."

VR 680-21-07.03. Nutrient Enriched Waters - Water Quality Standards.

§ 1. Purpose.

The board recognizes that nutrients are contributing to undesirable growths of aquatic plant life in surface waters of the Commonwealth. This standard establishes a designation of "nutrient enriched waters." Designations of surface waters of the Commonwealth as "nutrient enriched waters" are determined by the board based upon an evaluation of the historical water quality data for one or more of the following indicators of nutrient enrichment: chlorophyll "a" concentrations, dissolved oxygen fluctuations, and concentrations of total phosphorus.

§ 2. Authority.

This standard is adopted under the authority of §§ 62.1-44.15(3) and 62.1-44.15(10) of the Code of Virginia.

§ 3. Designation of nutrient enriched waters.

The following state waters are hereby designated as "nutrient enriched waters":

1. Smith Mountain Lake and all tributaries* of the impoundment upstream to their headwaters.
2. Lake Chesdin from its dam upstream to where the Route 360 bridge (Goodes Bridge) crosses the Appomattox River, including all tributaries to their headwaters that enter between the dam and the Route 360 bridge.
3. South Fork Rivanna Reservoir and all tributaries of the impoundment upstream to their headwaters.
4. Peak Creek from its headwaters to its mouth (confluence with Claytor Lake), including all tributaries to their headwaters.
5. Aquia Creek from its headwaters to the state line.
6. Fourmile Run from its headwaters to the state line.
7. Hunting Creek from its headwaters to the state line.
8. Little Hunting Creek from its headwaters to the state line.
9. Gunston Cove from its headwaters to the state line.
10. Belmont and Occoquan Bays from their headwaters to the state line.
11. Potomac Creek from its headwaters to the state line.
12. Neabsco Creek from its headwaters to the state line.
13. Williams Creek from its headwaters to its confluence with Lower Machodoc Creek.
14. Tidal freshwater Rappahannock River from the fall line to Buoy 44, near Leedstown, Virginia, including all tributaries to their headwaters that enter the tidal freshwater Rappahannock River.
15. Estuarine portion of the Rappahannock River from Buoy 44, near Leedstown, Virginia, to the mouth of the Rappahannock River (Buoy 6), including all tributaries to their headwaters that enter the estuarine portion of the Rappahannock River.
16. Estuarine portion of the Mattaponi River from Clifton, Virginia, and estuarine portion of the Pamunkey River from Sweet Hall Landing, Virginia to

West Point, Virginia, and the York River from West Point, Virginia, to the mouth of the York River (Tue Marsh Light) including all tributaries to their headwaters that enter the estuarine portions of the Mattaponi River, the Pamunkey River and the York River.

17. Tidal freshwater James River from the fall line to the confluence of the Chickahominy River (Buoy 70) including all tributaries to a distance five river miles above their fall lines that enter the tidal freshwater James River.

18. Estuarine portion of the James River from its confluence with the Chickahominy River (Buoy 70) to the mouth of the James River (Buoy 25), including all tributaries to their headwaters.

19. Chesapeake Bay and its small coastal basins from the Virginia state line to the mouth of the Bay (a line from Cape Henry drawn through Buoys 3 and 8 to Fishermans Island), and its tidal tributaries, excluding the Potomac tributaries, those tributaries listed above, and the Mattaponi River upstream of Clifton, Virginia, and the Pamunkey River upstream of Sweet Hall Landing, Virginia.

20. Tidal freshwater Blackwater River from the Norfolk and Western railway bridge at Burdette, Virginia, and tidal freshwater Nottoway River from the Norfolk and Western railway bridge at Courtland, Virginia, to the state line, including all tributaries to their headwaters that enter the tidal freshwater portions of the Blackwater River and the Nottoway River.

§ 4. Whenever any water body is designated as "nutrient enriched waters," the board shall modify the NPDES permits of point source dischargers into the "nutrient enriched waters" as provided in the board's Policy for Nutrient Enriched Waters (VR 680-14-02).

* When the word "tributaries" is used in this standard, it does not refer to the mainstem of the water body that has been named.

* * * * *

Title of Regulation: VR 680-16-03. Upper James River Basin Water Quality Management Plan.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Effective Date: October 12, 1988

Background:

Water Quality Management Plans (WQMP) set forth those measures to be taken by the State Water Control Board for reaching and maintaining applicable water quality goals both in general terms and in numeric

loadings for five day biochemical oxygen demand (BOD5) in identified stream segments.

Section 62.1-44.15(3) of the Code of Virginia authorizes the State Water Control Board to establish water quality standards and policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend, or cancel any such established standards or policies.

Section 62.1-44.15(13) of the Code of Virginia authorizes the establishment of policies and programs for area and basin wide water quality control and management.

A summary of the amendment follows.

Summary:

The amendment revises the allowable carbonaceous BOD5 loading upward from 8.8 lbs/day to 25 lbs/day for the Bath County Service Authority's (BCSA) Ashwood-Healing Springs sewage treatment plant (STP) and requires a dissolved oxygen minimum limitation of 7.0 mg/l. The total allowable CBOD5 loading for the Maury River was not revised, only the allocation of the loading to the City of Lexington was increased. The revision to the CBOD5 loading for the Bath County Industrial Development Authority's (BCIDA) proposed Millboro Industrial Park sewage treatment plant involves replacing the current loading of 2.1 lbs/day with "self-sustaining" (must maintain water quality standards on its own), since this discharge does not actually go to the Maury River.

The revisions are based on recent modeling performed by the State Water Control Board. The major difference between the loading rates are due to improvements in modeling techniques and sewage treatment technology. State Water Control Board modeling demonstrated that 25 lbs/day of BOD5 can be discharged into Cascades Creek from the BCSA Ashwood-Healing Springs STP provided the discharge contains a dissolved oxygen concentration of at least 7.0 mg/l. The BCIDA proposed Millboro Industrial Park STP can discharge 6.26 lbs/day of BOD5 provided the discharge contains a dissolved oxygen concentration of at least 7.2 mg/l. The National Pollutant Discharge Elimination System (NPDES) permits authorizing these discharges contain the above respective dissolved oxygen limits of 7.0 mg/l, 5.0 mg/l, and 7.2 mg/l.

The WQMP consultants also made technical errors in the modeling done for Cascades Creek which resulted in an inaccurate BOD5 loading value. In addition, modeling done for the proposed Millboro Industrial Park STP discharge to Cabin Creek, by the WQMP consultants, assumed a drought flow for Cabin Creek. The State Water Control Board based its model of Cabin Creek on an actual field investigation, and it

Final Regulations

was modeled as a dry ditch, i.e. during times of severe drought there is no water in the stream channel. Therefore, the establishment of BOD5 loading rates or allocations for Cabin Creek is technically incorrect because at drought flows the stream channel will be dry. Effluent discharged to dry ditches must be "self sustaining." In other words, the effluent itself must maintain the established water quality standards as it flows through the dry stream channel. The current loading requirement for Cabin Creek contained in the Upper James WQMP must be deleted and replaced with "self-sustaining."

VR 680-16-03. Upper James River Basin Water Quality Management Plan.

TEXT OF AMENDMENT

Reference for Cascades Creek, river mile 3.0 - 0.0, Cabin Creek river mile 1.7 - 0.0 and Maury River river mile 19.6 - 12.2 on Table 7 in Part 1 and Table 76 in Part 2 of Volume V-A of the Upper James River Basin Water Quality Management Plan would be amended as follows:

Stream	Segment Number	Segment Classification ¹	Mile to Mile	Significant Dischargers	Total Assimilative Capacity of Stream BOD ₅ Lbs/Day	Waste Load Allocation ₂ BOD ₅ Lbs/Day ²	Reserve BOD ₅ Lbs/Day ⁵
Cascades Creek	2-1	E.L.	3.0 - 0.0	Ashwood Healing Springs STP	2.2 25.0	7.0 25.0	1.8 (20%) None
Cabin River	2-4	E.L.	1.7 - 0.0	Millboro Industrial Park	2.1 <u>Self-sustaining</u>	1.7 None	0.4 (20%) None
Maury River	2-4	E.L.	19.6 - 12.2	Lexington STP	[380.0] [400.0]	300.0 [380.0]	80.0 (21%) None

1. Recommended classification.
2. Based on 2020 loads or stream assimilative capacity less 20 percent.
5. Percentages refer to reserve as percent of total assimilative capacity. Minimum reserve for future growth and modeling accuracy is 20% unless otherwise noted.

None of the other portions of Volume V-A or the Plan Summary are affected by this amendment.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

Bureau of Insurance

August 9, 1988

Administrative Letter 1988-12

TO: All Companies Licensed to Write Property and Casualty Insurance in Virginia.

RE: Withdrawal of Administrative Letter 1987-8.

The 1988 General Assembly passed House Bill 147 to amend Virginia Code § 38.2-513 effective July 1, 1988. The amendment related to the prohibition against a lender requiring a borrower to use a particular insurance company or agent for the protection of secured property.

The following language has been added to Section 2.a of Virginia Code § 38.2-513:

"Use of the ratings of a nationally recognized rating service shall not be deemed unreasonable provided such ratings are based on reasonable standards uniformly applied. If an insurer, duly licensed in Virginia, does not possess the required rating of a nationally recognized rating service, no person who lends money or extends credit shall refuse to accept from an insurer a certificate of 100% reinsurance issued by another insurer pursuant to Virginia Code § 38.2-136, which does possess the required rating."

This Code amendment necessitates the withdrawal of Administrative Letter 1987-8 effective July 1, 1988.

/s/ Steven T. Foster
Commissioner of Insurance

* * * * *

Bureau of Insurance

August 4, 1988

Administrative Letter 1988-13

TO: All Health Maintenance Organizations Licensed in Virginia.

RE: Copayments for Inpatient Mental and Nervous Disorders.

This office has received several questions from health maintenance organizations (HMOs) desiring to impose copayment amounts for inpatient mental and nervous disorders which differ from the copayments imposed for other illnesses. As a result, we have reviewed both the statutory and regulatory requirements, and have concluded that HMOs may impose copayments for inpatient mental and nervous disorders which differ from those imposed for

other illnesses.

The purpose of this Administrative Letter is to notify all HMOs licensed in Virginia of this position since it represents a change from previous Bureau of Insurance policy. The maximum aggregate copayment remains 200% of the annual premium, and this must continue to be stated as a dollar amount. This maximum aggregate copayment shall include all copayments for basic healthcare services including inpatient mental and nervous disorders except copayments for drug and alcohol rehabilitation benefits in excess of \$80.00 per inpatient day.

Please direct any questions regarding this matter to:

Robert L. Wright, CLU
Supervisor, Forms and Rates Section
Life and Health Division
P.O. Box 1157
Richmond, Virginia 23209

/s/ Steven T. Foster
Commissioner of Insurance

* * * * *

Bureau of Insurance

August 5, 1988

Administrative Letter 1988-14

TO: All Companies Licensed to Write Life Insurance in Virginia.

RE: Adoption of New Mortality Tables Pursuant to the 1982 Amendments to the Standard Nonforfeiture Law - § 38.2-3209 K of the Code of Virginia, as amended.

Section 38.2-3209 K of the Code of Virginia, as amended, provides that all companies must be issuing policies based upon the 1980 mortality tables by no later than January 1, 1989, but that a company may elect to comply at an earlier date upon written notice to the State Corporation Commission.

The Bureau of Insurance has received a number of inquiries from companies requesting guidance on the filing of their election to use the 1980 CSO tables.

The purpose of this Administrative Letter is to encourage companies to file this election as early as possible to avoid delay in granting approval of forms using the new tables. We have noted a recent significant increase in the number of life insurance filings received in this department and wish to assist companies in avoiding delays which will be caused by increased filings toward the end of calendar year 1988. Companies have had some six years to prepare for this transition, and, the Bureau will not be responsive to requests for special or

State Corporation Commission

expedited handling.

Companies were notified in Administrative Letter 1983-6 that "like forms" as that term is defined in the Administrative Letter would not be allowed to be issued simultaneously in Virginia based on both the new and old tables. In view of this, we cannot grant formal approval of new forms until we have been notified of your date of election, and until that date arrives. As an interim measure, the Bureau of Insurance will provide a preliminary review of forms based on the new tables for companies not yet ready to become operative on the new tables. The Bureau of Insurance will advise your company of any deficiencies in the forms and, of course, these must be corrected prior to their being approved in Virginia. Once the form is acceptable, the Bureau of Insurance will notify you that it is in approvable form, but will pend formal approval of the form until the date you elect to market forms based on the new tables and withdraw forms based upon the old tables. On or about the operative date selected by your company, or January 1, 1989, whichever is earlier, the Bureau of Insurance will send you notification of formal approval of the new forms.

In the event your forms do not need to be modified to make this change, you may file an election letter: a) listing the form numbers to be changed to the new table; and b) providing supporting actuarial information. When using this procedure, you will also need to provide us with a certification signed by an officer of your company indicating that the forms have been reviewed by the company and are in compliance with current Virginia statutory and regulatory requirements.

We hope that this information will assist you in making the appropriate filings so that your life insurance forms will be approved as of January 1, 1989 on the new tables. Should you have any questions regarding the matters covered in this letter, please direct them, in writing, to:

Robert L. Wright, CLU
Supervisor, Forms and Rates Section
Life and Health Division
P.O. Box 1157
Richmond, Virginia 23209

/s/ Steven T. Foster
Commissioner of Insurance

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: **VR 115-05-09. Rules and Regulations -
Official Standards for Enforcement of the Virginia
Apples: Grading, Packing, and Marking Law.**

Governor's Comment:

The promulgation of these regulations is intended to eliminate eight outdated Virginia grade standards. It will update the remaining standards and adopt the U.S. Standards for determination of apple grades in Virginia. Pending public comment, I recommend approval of these regulations.

/s/ Gerald L. Baliles
Date: August 10, 1988

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: **VR 355-20-02. Virginia Radiation
Protection Regulations: Fee Schedule.**

Governor's Comment:

I concur with the form and content of this proposal, subject to a review of the comments received during the public comment period.

/s/ Gerald L. Baliles
Date: August 15, 1988

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **VR 115-02-16. Rules and Regulations Establishing Testing Requirements for Feeder Pig Production Herds.** The purpose of the proposed regulation is to establish a program for the control and eradication of pseudorabies in swine in Virginia.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Written comments may be submitted until September 23, 1988, to W. D. Miller, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: L. H. Redford, Assistant Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 600, Richmond, Va. 23219, telephone (804) 786-2483

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-04. Rules and Regulations Governing the Operation of Livestock Markets.** The purpose of the proposed action is to amend present provisions to the extent necessary to establish a program in Virginia to control and eradicate pseudorabies in swine, and also to make any other changes deemed necessary pursuant to required routine review of the regulation.

Statutory Authority: §§ 3.1-724, 3.1-730 and 3.1-757 of the Code of Virginia.

Written comments may be submitted until September 23, 1988, to W. D. Miller, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: L. H. Redford, Assistant Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, 1100 Bank Street, Suite 600, Richmond, Va. 23219, telephone (804) 786-2483

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-12. Rules and Regulations Pertaining to the Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds into Virginia.** The purpose of the proposed action is to amend present provisions to the extent necessary to establish a program in Virginia to control and eradicate pseudorabies in swine, and also to make any other changes deemed necessary pursuant to required routine review of the regulation.

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

Written comments may be submitted until September 23, 1988, to W. D. Miller, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: L. H. Redford, Assistant Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 600, Richmond, Va. 23219, telephone (804) 786-2483

DEPARTMENT OF COMMERCE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Virginia Board of Hearing Aid Dealers and Fitters.** The purpose of the proposed action is to solicit public comment on all existing regulations as to effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the board's Public Participation Guidelines and Chapter 15.2 (§ 54-524.110) of Title 54 of the Code of Virginia.

Statutory Authority: § 54-524.110 of the Code of Virginia.

Written comments may be submitted until October 12, 1988.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

DEPARTMENT OF EDUCATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Education intends to consider amending regulations entitled: **VR 270-02-0000. Certification Regulations for Teachers.** Amendments to the regulation is in response to federal legislation (P.L. 99-457) requiring that personnel serving special education students meet the highest standard in the Commonwealth. Accordingly, the certification regulations for speech-language pathologists are being revised.

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

Written comments may be submitted until December 31, 1988.

Contact: Dr. Lissa Power Cluver, Associate Director, Special Education Programs, Department of Education, P. O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2873

STATE EDUCATION ASSISTANCE AUTHORITY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Education Assistance Authority intends to consider promulgating regulations entitled: **VR 275-02-1. Regulations Governing the Edvantage Loan Program.** The purpose of the proposed regulation is to establish policies which govern the administration of the Edvantage Loan Program on the part of participating lenders and institutions of higher education.

Statutory Authority: § 23-38.64 of the Code of Virginia.

Written comments may be submitted until September 25, 1988.

Contact: Randy A. Craig, Manager, Technical Services, State Education Assistance Authority, 6 N. Sixth St., Suite 300, Richmond, Va. 23219, telephone (804) 786-2035, toll-free 1-800-792-5626 (VA only) or SCATS 786-2035

VIRGINIA FIRE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Fire Services Board intends to consider amending regulations entitled: **Certification Standards for Fire Inspector I and II.** The purpose of the proposed action is to revise the present regulations to include training for issuing, obtaining and serving inspection warrants according to § 27-98.1 et seq. of the Code of Virginia. This section was added to the Code by the passage of House Bill 564 by the 1988 General Assembly.

Statutory Authority: § 27-34.2 of the Code of Virginia.

Written comments may be submitted until October 1, 1988.

Contact: Robert Williams, II, Fire Services Training Specialist, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-2681 or SCATS 225-2681

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Expansion of Covered Optometric Services.** The purpose of the proposed action is to expand the coverage of optometric services to provide reimbursement to the extent of the optometric license with exception of orthoptics.

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

Written comments may be submitted until September 21, 1988, to C. Mack Brankley, Director, Division of Operations, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **Nonenrolled Provider Reimbursement.** The purpose of the proposed regulation is to establish the payment method for nonenrolled providers.

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

Written comments may be submitted until September 12,

General Notices/Errata

1988, to Malcolm O. Perkins, Manager of Provider Relations, Division of Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

VIRGINIA STATE BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider promulgating regulations entitled: **VR 465-05-1. Regulations Governing the Practice of Physicians' Assistants.** The purpose of the proposed action is to stipulate how many physicians may supervise one physician assistant.

Statutory Authority: §§ 54-281.4 through 54-281.9 and 54-291 of the Code of Virginia.

Written comments may be submitted until September 23, 1988.

Contact: Lori A. Freeman, Executive Secretary, 1601 Rolling Hills Dr., Surry Bldg., 2nd Fl., Richmond, Va. 23229-5005, telephone (804) 662-9925

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mental Health, Mental Retardation and Substance Abuse Services intends to consider amending regulations entitled: **Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation.** The purpose of the proposed action is to assure the department's regulations on the rights of residents are current and adequately protect the rights of the residents served. The Task Force will meet regularly throughout the state in hopes of completing the process in 12 months.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until October 19, 1988, to Elsie D. Little, State Human Rights Director, P. O. Box 1797, Richmond, Virginia 23214.

Contact: Rubyjean Gould, Administrative Services Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3915 or SCATS 786-3915

STATE BOARD OF PHARMACY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Virginia Board of Pharmacy.** The purpose of the proposed action is to amend § 5.2, Automated data processing records of prescriptions, to provide that the original prescription placed on file must be hand-initialed by the pharmacist and to provide for other changes that may be indicated in automated data system records.

Statutory Authority: §§ 54-524.16 and 54-524.69 (Drug Control Act) of the Code of Virginia.

Written comments may be submitted until October 12, 1988.

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

VIRGINIA REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Real Estate Board intends to consider amending regulations entitled: **Virginia Real Estate Board Regulations, Real Estate License Laws and Fair Housing Laws.** The Virginia Real Estate Board proposes to undertake an annual review and seek public comments on all its regulations for promulgation, amendment and repeal as is deemed necessary.

Statutory Authority: § 54-740 of the Code of Virginia.

Written comments may be submitted until November 1, 1988.

Contact: Joan L. White, Assistant Director, Virginia Real Estate Board, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8552, toll-free 1-800-552-3016 or SCATS 367-8552

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Rehabilitative Services intends to consider amending regulations entitled: **Provision of Vocational Rehabilitation Services.** The purpose of the proposed action is to amend

certain portions to (i) comply with new federal regulations and (ii) broaden the service capabilities of the department.

Statutory Authority: § 51.01-5 of the Code of Virginia.

Written comments may be submitted until October 1, 1988, to Charles H. Merritt, P. O. Box 11045, Richmond, Virginia 23230.

Contact: James L. Hunter, Board Administrator, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 367-6446, SCATS 367-6466, toll-free 1-800-552-5019 ☎ , or (804) 367-0280 ☎

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Establishment of Administrative Support Orders**. The purpose of the proposed regulation is to provide an administrative means for the expedited handling of support cases in addition to the judicial system.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Child Support Enforcement Services**. The purpose of the proposed regulation is to provide for recoupment of funds expended in public assistance and assistance to persons with dependent children who need support.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Confidentiality and Exchange of Information for Child Support Enforcement Services**. The purpose of the proposed regulation is to allow for efficient use of information while providing protection for responsible parents and applicants for service.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Enforcement of Child Support Obligations**. The purpose of the proposed regulation is to provide for the collection of current and delinquent support obligations to ensure that caretakers and children in need of support receive it.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Establishment of Paternity in Child Support Enforcement**. The purpose of the proposed regulation is to establish the rights of children and enable the Department of Social Services to collect support for children from persons responsible for their support.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

I

General Notices/Errata

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Persons Qualifying for Child Support Enforcement Services**. The purpose of the proposed regulation is to ensure that child support enforcement services be made available to all persons with dependent children who are in need of support.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Responsibilities of IV-D Agencies in Interstate Child Support**. The purpose of the proposed regulation is to allow for more efficient and effective handling of interstate child support cases.

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

Written comments may be submitted until September 15, 1988.

Contact: Jane Clements, Chief, Bureau of Program Operations, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-7469 or SCATS 662-7469

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-14-01. Permit Regulation**. The purpose of the proposed action is to make amendments requested by the U.S. Environmental Protection Agency for conformance with federal regulations and to consider revision of the requirement for a permit to be issued prior to commencing erection, construction or expansion or employment of new processes at any site. The Permit Regulation is used to enforce water quality management in Virginia. The impact of the proposed permits to Virginia Pollutant Discharge Elimination and Virginia Pollution Abatement permittees will be minimal, and will cause no known monetary increases. Applicable laws and regulations

include the Clean Water Act (Section 402) and the State Water Control Law.

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

Written comments may be submitted until September 22, 1988.

Contact: David N. Smith, Water Control Engineer, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6302 or SCATS 367-6302

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-14. Potomac-Shenandoah River Basin Water Quality Management Plan**. The purpose of the proposed action is to revise the five day biochemical oxygen demand loading for the Harrisonburg-Rockingham Regional Sewer Authority sewage treatment plant. Water Quality Management Plans set forth measures for the SWCB to implement in order to reach and maintain applicable water quality goals by general terms and also by establishing numeric loadings for five day biochemical oxygen demand (BOD5). Federal and state laws require that NPDES permits be in compliance with appropriate area and/or basinwide Water Quality Management Plans. The proposed amendment would revise the BOD5 loading for the Harrisonburg-Rockingham Regional Sewer Authority STP.

Statutory Authority: § 62.1-44.15(3) and (10) of the Code of Virginia.

Written comments may be submitted until September 22, 1988.

Contact: Charles T. Mizell, Supervisor, Water Resources, Development, State Water Control Board, P. O. Box 268, Bridgewater, Va. 22812, telephone (703) 828-2595 or SCATS 332-7879

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-08. River Basin Section Tables - Water Quality Standards**. The purpose of the proposed action is to amend the standards to provide a stream class designation for Hot Springs Run, Section 12, James River Basin (Upper). Water Quality standards establish the requirements for the protection of water quality and of beneficial uses of these waters. The Hot Springs Waste Water Treatment Plant could be impacted by the designation, depending on the classification assigned to the stream.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until September 22, 1988.

Contact: Elleanore Moll, Pollution Control Specialist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-0387 or SCATS 367-0387

GENERAL NOTICES

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† Public Hearing

The Board of Agriculture and Consumer Services will hold a public hearing on a preliminary draft of regulations, printed below, on pseudorabies in swine. The hearing will held on Wednesday, October 5, 1988, at 10 a.m. in the:

Board Room
2nd Floor
Washington Building
1100 Bank Street
Richmond, Virginia

The board anticipates that the preliminary draft regulation will serve as the basis of an emergency regulation.

To assure the fullest possible public participation under the circumstances in creating the regulation, however, the board has elected to hold a public hearing on the preliminary draft regulation.

There is a critical need for a measure to test for pseudorabies in swine in Virginia. Two consequences of failing to do so are the proliferation of a serious disease and the closing of out-of-state markets to Virginia swine. Specifics on the need for such a measure appear in the preamble to the draft regulation, below.

PRELIMINARY DRAFT

RULES AND REGULATIONS ESTABLISHING TESTING REQUIREMENTS FOR FEEDER PIG PRODUCTION HERDS (VR 115-02-16)

AUTHORITY

Sections 3.1-724 and 3.1-726 of the Code of Virginia.

EFFECTIVE DATE

December 1, 1988

APPLICABILITY

The provisions of this regulation are in addition to, and not in lieu of, other provisions of law or regulation.

PREAMBLE

The Board of Agriculture and Consumer Services finds that pseudorabies is one of the contagious and infectious diseases of livestock and poultry subject to regulation pursuant to § 3.1-726 of the Code of Virginia. The disease is not known to infect man. For reasons detailed below, there is not sufficient time to promulgate a regulation through ordinary means under the Administrative Process Act. Without a regulation, serious harm will result to the market for Virginia feeder pigs.

Pseudorabies affects (and often kills) a host of warm-blooded animals, but its presence is of particular concern in swine. There is a need to develop early a program to test swine in Virginia for this disease. The need derives in part from the fact that the disease has been found in Virginia, and abatement requires knowledge of where and to what extent the disease exists in the Commonwealth. Also, a number of states have adopted, and others are in the process of adopting, regulations that bar importation of swine from states that do not have in place pseudorabies-control programs that meet their standards. North Carolina, for one, will close its markets to Virginia feeder pigs on January 1, 1989, unless Virginia has a satisfactory program in place by that time. Tennessee, Pennsylvania, Kentucky, Ohio, and Georgia are initiating or have initiated similar measures. The standards they have adopted center on a model program recently established by the National Pseudorabies Control Board. The effort of that board is a cooperative one, involving the National Pork Producers Association, the United States Animal Health Association, and the Livestock Conservation Institute.

There is a need for a regulation to establish the program in Virginia. A fuller regulation will soon be developed, and that regulation will supersede the present, proposed emergency regulation.

§ 1. Definitions.

The following terms, when used in this regulation, shall have the following meanings, unless the context clearly indicates otherwise:

"Accredited veterinarian" means a licensed veterinarian approved by the United States Department of Agriculture and the State Veterinarian to perform functions required by cooperative state-federal disease control and eradication programs.

"Approved laboratory" means a laboratory approved by the United States Department of Agriculture or the State Veterinarian to conduct official pseudorabies tests.

General Notices/Errata

"Boar" means any male swine used for or intended to be used for producing offspring.

"Feeder pig" means any immature swine used for or intended to be used exclusively for feeding for slaughter.

"Licensed veterinarian" means a veterinarian who has been graduated from a recognized college of veterinary medicine and has been examined and found to be proficient by the Virginia Board of Veterinary Medicine.

"Official pseudorabies serologic test" means an official pseudorabies test conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

"Official pseudorabies test" means any test for the diagnosis of pseudorabies approved by the United States Department of Agriculture and conducted in an approved laboratory.

"Pseudorabies" is an infectious and contagious disease, governed by § 3.1-726 of the Code of Virginia, of swine and certain other warm-blooded animals.

"Pseudorabies monitored herd" means a feeder pig production herd that has been tested according to the provisions of § 4 of this regulation.

"Qualified pseudorabies negative herd" means a feeder pig production herd that meets the provisions of § 5 of this regulation.

"Sow" means any female swine used for or intended to be used for producing offspring.

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

§ 2. Pseudorabies test procedures.

A. Blood samples collected for use in conducting an official pseudorabies serologic test shall be drawn by an accredited veterinarian, and the test shall be conducted at an approved laboratory.

B. The accredited veterinarian shall record on the official pseudorabies test chart individual identification of the animals tested.

§ 3. Identification of swine.

A. All swine tested for pseudorabies from feeder pig production herds shall be individually identified by eartag, tattoo, registration number, standard ear notch, or by any other method approved by the State Veterinarian.

B. Feeder pigs subject to this regulation shall be individually identified by metal eartag or by any other

method approved by the State Veterinarian.

§ 4. Pseudorabies monitored herd procedures.

A. To achieve initial certification as a pseudorabies monitored herd, a feeder pig production herd shall be tested and found to be negative for pseudorabies, with the testing to be of a representative sample of the herd, including all boars. The sample size shall be as follows:

1. In herds of ten sows or fewer, all sows shall be tested;

2. In herds of 11 to 35 sows, ten sows shall be tested; and

3. In herds of 36 sows or more, 30% of sows or 30 sows, whichever is fewer, shall be tested.

B. To continue to be certified as a pseudorabies monitored herd, the initially certified feeder pig production herd shall be recertified annually by utilizing the sample size specified in § 4 A of this regulation. The sample for recertification shall also include all boars and 30% of sows added to the feeder pig production herd since the last certification test. The recertification date shall be no more than 30 days before and no more than 30 days after the anniversary date of the initial herd certification pursuant to § 4 A.

§ 5. Qualified pseudorabies negative herd procedures.

A. Qualified pseudorabies negative herd status shall be attained by subjecting all swine over six months of age in the feeder pig production herd to an official pseudorabies serologic test and finding all swine so tested to be negative.

B. Qualified pseudorabies negative herd status shall be maintained by subjecting all swine over six months of age in the feeder pig production herd to an official pseudorabies serologic test at least once each year. The test shall be accomplished by testing 25% of swine over six months of age every 80-105 days and finding all swine so tested to be negative. No swine may be tested twice in one year to comply with the 25% requirement.

C. To the extent that they are consistent with the present regulation, the provisions of 9 CFR 85.1 shall govern the means of establishing a herd as a qualified pseudorabies negative herd.

§ 6. Proof of herd-health status.

Proof of herd-health status for pseudorabies shall be by one of the following methods:

A. A current Swine Herd Health Card for Pseudorabies (VDACS-03024) issued by the State Veterinarian or other proof, specified by the State Veterinarian, of being a pseudorabies monitored herd or a qualified pseudorabies

negative herd; or

B. An official pseudorabies test chart identifying the individual feeder pigs offered in the transaction or shipment and indicating that they have been tested and found to be negative for pseudorabies within the past 30 days.

§ 7. Intrastate dealings in feeder pigs; interstate shipment.

Feeder pigs sold, lent, leased or traded in Virginia; feeder pigs offered for sale, loan, lease, or trade in Virginia; feeder pigs imported into Virginia from other states; and feeder pigs exported from Virginia into states that require testing for export shall:

A. Originate from a pseudorabies monitored herd;

B. Originate from a qualified pseudorabies negative herd; or

C. Be individually tested and found negative for pseudorabies within 30 days prior to the shipment and within 30 days prior to the transaction.

§ 8. Petitions for reconsideration or revision.

The Board of Agriculture and Consumer Services will receive, consider, and respond to petitions by any interested persons at any time with respect to reconsideration or revision of this regulation.

These regulations shall expire on January 1, 1990, if they are not superseded prior to that time by other, more extensive regulations contemplated for the abatement of pseudorabies.

BUREAU OF CAPITAL OUTLAY MANAGEMENT

Procedures for the Receipt and Consideration of Written Public Comment on Survey Standards for Buildings other than School Buildings Developed Pursuant to Article 5.2. [Section] 2.1-526.14 of Chapter 32 of Title 2.1 of the Code of Virginia

Comment pursuant to the above section of the Code of Virginia must in written format and be received by the Bureau of Capital Outlay Management not later than September 30, 1988. It is requested that the comments identify the specific section of the standards referenced and that substitute language be provided which will accomplish the recommended change. General comments will also be accepted; however, it will be more difficult to incorporate "general" concepts into the specific standards.

At the conclusion of the comment period, the Asbestos Management Section will collate the responses to each section of the standard and will review each comment for merit. Proposed changes will be incorporated into the standards and will be presented to the Director for his

approval.

Upon the approval of the Director, a copy of the revised survey standards will be submitted to the Agency Head responsible for the implementation of the standards. Copies will be available at a small charge.

Written comments are to be mailed to:

Asbestos Management Section
Bureau of Capital Outlay Management
805 East Broad Street
Richmond, Virginia 23219

Please submit separate comments for each survey standard reviewed. Please include the name, address and telephone number of a contact person who can, if necessary, address specific questions.

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

† Notice of the Virginia Outdoors Fund Loan and Grant Programs

The Department of Conservation and Historic Resources is the agency designated by the General Assembly of Virginia to administer state appropriated funds for the acquisition and development of outdoor recreation areas and facilities.

The program goal is to facilitate the availability of outdoor recreation areas and facilities for all political jurisdictions in the Commonwealth of Virginia. Eligibility is limited to: Cities, Towns, Counties and Public Authorities responsible for providing public recreation services under the Code of Virginia.

Pursuant to the aforementioned authority, the Department of Conservation and Historic Resources hereby announces the availability of \$1,400,000 in loans and \$2,100,000 in grants each year for the 1988-90 biennium.

Applications for loans or grants or a combination of both to assist localities are available from the Department of Conservation and Historic Resources, Division of Parks and Recreation. Applications are received year-round and are reviewed in accordance with established criteria and needs identified through local and regional master plans and the State of Virginia Outdoors Plan.

† Notice of Chesapeake Bay Youth Conservation Corps Program

The Department of Conservation and Historic Resources is the lead agency designated by the General Assembly of Virginia to administer state appropriated funds for the Chesapeake Bay Youth Conservation Corps Program.

The program goal is to improve the water and the

General Notices/Errata

environment of the Chesapeake Bay through conservation projects that employ youth.

Eligibility is limited to all state agencies, political subdivisions, educational institutions, and Soil and Water Conservation Districts located within a specified Tidewater area of the Commonwealth of Virginia.

Notice is hereby given by the Department of Conservation and Historic Resources on the availability of \$300,000 in grant funds each year for the 1988-90 biennium.

Applications for eligible Tidewater localities are available from the Department of Conservation and Historic Resources, Division of Parks and Recreation. Applications are accepted year-round, but major emphasis is placed on the receipt of applications in the spring of each fiscal year in order to accommodate the opportunity for summer youth employment.

Program information for both the Virginia Outdoors Fund Loan and Grant Programs and the Chesapeake Bay Youth Conservation Corps Program is available by contacting:

Department of Conservation and Historic Resources
Division of Parks and Recreation
Attention: Art Buehler
Director, Administrative Services
Suite 306
203 Governor Street
Richmond, Virginia 23219

COUNCIL ON THE ENVIRONMENT

† Notice of Public Meeting

The Council on the Environment, the Department of Agriculture and Consumer Services and other relevant agencies of the Commonwealth will undertake a comprehensive review of pesticide management issues in Virginia. Public participation will be encouraged throughout this year-long review. The goal of the review will be to develop a management plan that protects public health and natural resources from potential pesticide contamination. Recommendations will be submitted to the Secretaries of Health and Human Resources, Natural Resources, and Economic Development in time for review and submission of budgetary and legislative proposals to the 1990 General Assembly. Issues that could be considered as part of the review include but are not limited to water quality protection, pesticide storage and disposal, wildlife and endangered species protection, farm worker safety, applicator and dealer certification, and education.

Scoping meetings will be held at four locations:

September 26, 1988 - 7:30 p.m. Donaldson Brown

Continuing Education Center, Conference Room C, Virginia Tech, Blacksburg, Virginia

September 27, 1988 - 7:30 p.m. Chandler Hall, James Madison University, South Main Street, Harrisonburg, Virginia

September 28, 1988 - 7:30 p.m. Upper Occoquan Sewage Authority, Board Meeting Room, Administration Building, Centreville, Virginia

September 29, 1988 - 7:30 p.m. Paul D. Camp Community College, Room 143, College Drive, Franklin, Virginia

Speakers will be asked to limit their comments to ten minutes. Written comments will be received until October 12, 1988, and should be addressed to: Administrator, Council on the Environment, Ninth Street Office Building, Room 903, Richmond, Va. 23219.

Contact: Jay Roberts, Council on the Environment, Ninth Street Office Bldg., Room 903, Richmond, Va. 23219, telephone (804) 786-4500

DEPARTMENT OF HEALTH

Notice of Intent to Solicit Comments on the Vendor Management Aspects of the Federal Fiscal Year 1987 WIC State Plan

Notice is hereby given that the Special Supplemental Food Program for Women, Infants and Children (WIC) intends to solicit additional public comments regarding the manner in which it manages its vendor operations. Interested parties will have the opportunity to comment on the WIC authorization process for grocery stores, pharmacies and military commissaries as well as related aspects of WIC Program administration. The length of the comment period and the dates, times and locations of public hearings will be announced later in the Register.

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01

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

Page 2545, § 2.10, following title, one sentence and a heading were omitted following the section heading. Add under the heading for § 2.10, "*The department shall use and require for use in the calibration and spanning of exhaust gas analyzers span gases and containers meeting the following parameters, blends, and specifications.*

A. Standardizing instruments."

Page 2548, § 4.6 A 2, lines 5 through 7, delete "Entering vehicles with or without air injection shall key an appropriate antidilution response described in § 4.16."

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

ERRATA

DEPARTMENT OF AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-99-01. Regulation for the Control of Motor Vehicle Emissions.

Publication: 4:23 VA.R. 2523-2540 August 15, 1988

Correction to the Proposed Regulation:

Page 2532, § 4.7, line 3, two sentences were omitted and should be added to read: "*As a fleet inspection station, no inspections shall be conducted for the employees or general public, but only on vehicles owned, leased by the business, or consigned or held in inventory for sale. A fleet emissions inspection station shall comply with all applicable requirements for emissions inspection stations.*"

Page 2535, § 6.2 G, last line, add to the end of the line "*, or any combination of the three.*"

Page 2536, § 6.3 A 4, line 2, change the second line to read "*or tachometer, or any combination of the three, adjust the idle air/fuel ratio using.*"

* * * * *

Title of Regulation: VR 120-99-02. Regulation for Vehicle Emissions Control Program Analyzer Systems.

Publication: 4:23 VA.R. 2541-2570 August 15, 1988

Correction to the Proposed Regulation:

Page 2542, § 1.2, definition of "Emissions inspection station," change "to perform motor vehicle emissions inspections" to "*to perform emissions standards inspections.*"

Page 2545, § 2.9 D, title and line 2, change "optional" to "*optical.*"

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
☒ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

STATE ADULT LITERACY COMMITTEE

September 13, 1988 - 9 a.m. – Open Meeting
Marriott Hotel, Richmond, Virginia. ☒

A quarterly meeting of the State Adult Literacy Committee. Addresses progress and issues related to state agency participation in the Virginia Literacy Initiative.

Contact: Dr. Stephen A. Nunes, Office of State Adult Literacy, James Monroe Bldg., 18th Fl., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-4430

DEPARTMENT FOR THE AGING

September 27, 1988 - 10 a.m. – Open Meeting
Council Chambers, Municipal Building, S.W., Room 450, Roanoke, Virginia. ☒ (Interpreter for deaf provided if requested)

September 29, 1988 - 10 a.m. – Open Meeting
Holiday Inn - South, Virginia Room, US 1 and Interstate 95, Exit 44, Fredericksburg Exit, Fredericksburg, Virginia.
☒ (Interpreter for deaf provided if requested)

Hearing to invite public comment and perspectives as part of a study on the problems of suicide and substance abuse by the elderly. Also, to consider the impact of family care-giving on employee work performance (HJR 156). Written comments should be sent to: Mr. Ron Handy, Virginia Department for the

Aging, 700 Centre, 10th Floor, 700 East Franklin Street, Richmond, Virginia 23219-2327. The department will arrange interpreter services for the hearing impaired on request.

Contact: Ron Handy, Information Analyst, 700 Centre, 10th Fl., 700 E. Franklin St., Richmond, Va. 23219-2327, telephone (804) 225-2853, toll-free 1-800-552-4464, SCATS 225-2271 or 225-2271/TDD ☎

STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

October 4, 1988 - 1 p.m. – Open Meeting
October 5, 1988 - 9 a.m. – Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia

A regular meeting of the board.

Contact: Roy E. Seward, Acting Secretary, 1100 Bank St., Room 210, Richmond, Va. 23219, telephone (804) 786-3501 or SCATS 786-3501

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

October 4, 1988 - 2 p.m. – Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-05-09. Rules and Regulations - Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law.** This regulation provides official descriptions of the requirements to be used in determining the quality and grade of apples and also specifies packing and marking requirements.

Statutory Authority: § 3.1-615 of the Code of Virginia.

Written comments may be submitted until September 3, 1988, to Raymond D. Vaughan, Secretary, 1100 Bank Street, Room 210, Richmond, Virginia 23219.

Contact: Donald B. Ayers, Chief, Department of Agriculture and Consumer Services, 1100 Bank St., Room 701, Richmond, Va. 23219, telephone (804) 786-3549

STATE AIR POLLUTION CONTROL BOARD

October 3, 1988 - 9 a.m. - Open Meeting
October 4, 1988 - 8:45 a.m. - Open Meeting
Sheraton, Virginia Beach, Virginia

This is a general meeting of the board. The annual meeting of the State Advisory Board on Air Pollution will be on October 4 at the Sheraton, Virginia Beach.

Contact: Richard Stone, Public Information Officer, P. O. Box 10089, Department of Air Pollution Control, Richmond, Va. 23240, telephone (804) 786-5478 or SCATS 786-5478

DEPARTMENT OF AIR POLLUTION CONTROL

October 18, 1988 - 7 p.m. - Public Hearing
Fairfax County Government Office, 4100 Chain Bridge Road, "A Level" Massey Building, Board of Supervisors Meeting Room, Fairfax, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Air Pollution Control intends to adopt regulations entitled: VR 120-99-01. Regulation for the Control of Motor Vehicle Emissions. The regulation concerns the inspection of motor vehicle emissions and subsequent repairs, as necessary to meet air pollution control requirements.

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

Written comments may be submitted until October 18, 1988, to the Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, Virginia 23240.

Contact: M.E. Lester, Director, Division of Mobile Source Operations, Department of Air Pollution Control, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564 or SCATS 786-7564

October 18, 1988 - 7 p.m. - Public Hearing
Fairfax County Government Office, Board of Supervisors Meeting Room, "A Level" Massey Building, 4100 Chain Bridge Road, Fairfax, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Air Pollution Control intends to adopt regulations entitled: VR 120-99-02. Regulation for Vehicle Emissions Control Program Analyzer Systems. The proposed regulation establishes the specifications that must be met for an analyzer system to be approved for use in conducting emissions inspections in the Vehicle Emission Control Program.

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

Written comments may be submitted until close of business October 18, 1988, to the Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, Virginia 23240.

Contact: M.E. Lester, Director, Division of Mobile Source Operations, Department of Air Pollution Control, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564 or SCATS 786-7564

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

September 20, 1988 - 10 a.m. - Public Hearing
2901 Hermitage Road, 1st Floor Hearing Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Alcoholic Beverage Control intends to amend regulations concerning the possession, sale, distribution and consumption of alcoholic beverages. The proposed amendments will affect the following seven categories:

Procedural Rules for the Conduct of Hearings Before the Commission and its Hearing Officers and the Adoption or Amendment of Regulations (VR 125-01-1);

Advertising (VR 125-01-2);

Tied-House (VR 125-01-3);

Requirements for Product Approval (VR 125-01-4);

Retail Operations (VR 125-01-5);

Manufacturers and Wholesalers Operations (VR 125-01-6);

Other Provisions (VR 125-01-7).

Summary:

New regulations pertaining to beer and beverage excise taxes, solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits, and the prohibition of certain Sunday deliveries by wholesalers are proposed. In addition numerous regulations are being amended some of which relate to: (i) offers in compromise, (ii) advertising sales or reduced prices on alcoholic beverages, (iii) advertisement and sponsorship of cultural events and intercollegiate events, (iv) outdoor alcoholic beverage advertising promoting responsible drinking, (v) advertising of beer in student publications, (vi) placement of wine refund coupons on rebate bulletin boards, (vii) renumbering the tied-house regulations, (viii) solicitation of mixed beverage licensees and disqualifying factors, (ix) wine containers, (x) peddling of wine coolers and (xi) participation of wine wholesalers with specialty shop licensees in wine tastings involving the public.

Calendar of Events

Interested persons will be afforded an opportunity to submit data, views and arguments orally or in writing with respect to the proposals. Tentative drafts will be available for public inspection at the Office of the Secretary to the Board, with copies obtainable at such address or by request addressed to such office at P. O. Box 27491, Richmond, Virginia 23261.

Statutory Authority: § 4-11 of the Code of Virginia.

Written comments may be submitted until 10 a.m., September 20, 1988.

Contact: Robert N. Swinson, Secretary, Department of Alcoholic Beverage Control, P. O. Box 27491, 2901 Hermitage Rd., Richmond, Va. 23261, telephone (804) 367-0616 or SCATS 367-0616

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

September 30, 1988 - 9 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☐

A meeting to (i) approve minutes of the May 20, 1988, meeting; (ii) review enforcement cases; and (iii) review correspondence.

Virginia State Board of Architects

September 29, 1988 - 1:30 p.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes of May 6, 1988, meeting, (ii) discuss enforcement cases; (iii) review applications; and (iv) discuss correspondence.

Contact: Bonnie S. Salzman, Assistant Director for APELSCLA, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-552-3016 or SCATS 367-8514

BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

† **September 19, 1988 - 1 p.m. - Open Meeting**
The Koger Executive Center, Surry Building, 1601 Rolling Hills Dr., Conference Room 2, Richmond, Virginia. ☐

A general board meeting.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9111

BEDFORD COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

September 14, 1988 - 7:30 p.m. - Open Meeting
Courthouse, Court Room on 2nd Floor, Bedford, Virginia. ☐
(when requested)

Progress report by staff.

Contact: John P. Tansey, Chairman, Local Emergency Planning Committee, Courthouse, Lower Level, Bedford, Virginia, telephone (703) 586-0179

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **September 16, 1988 - 10 a.m. - Open Meeting**
Fourth Street State Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. ☐
(Interpreter for deaf provided if requested)

A meeting to consider requests for interpretation of the Virginia Uniform Statewide Building Code, to consider appeals from the rulings of local appeals boards regarding application of the Virginia Uniform Statewide Building Code, and to approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

October 6, 1988 - 5:30 p.m. - Open Meeting
November 3, 1988 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☐

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P. O. Box 40, Chesterfield, Va. 23832, telephone (804) 748-1236

CHILD DAY-CARE COUNCIL

November 1, 1988 - 4 p.m. - Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. - Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Boulevard, AV Room, Frederickburg, Virginia

November 3, 1988 - 2 p.m. - Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of

the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-02-01. Minimum Standards for Licensed Child Care Centers.** This regulation lists the standards that child care centers licensed by the Department of Social Services must meet. The following issues are addressed in the regulation: administration, personnel, staffing/supervision, physical environment, admission policies and procedures, special care provisions, emergencies, and program and services which include: management of behavior, nutrition and food service, daily schedule, and activities.

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

Written comments may be submitted until October 28, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Va. 23229, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

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November 1, 1988 - 4 p.m. – Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. – Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Boulevard, AV Room, Fredericksburg, Virginia

November 3, 1988 - 2 p.m. – Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-04-01. Criminal Record Checks.** This regulation establishes the criminal record check procedures that employees and volunteers of a child care center must follow. The regulation includes the following topics: individuals required to obtain certificates, routing of certificates, validity of certificates, duplicate certificates, and maintenance and responsibility of certificates by facilities.

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

Written comments may be submitted until October 28, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

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November 1, 1988 - 4 p.m. – Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. – Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Boulevard, AV Room, Fredericksburg, Virginia

November 3, 1988 - 2 p.m. – Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Title of Regulation: **General Procedures and Information for Licensure.**

Notice: Refer to Notice of Comment Period for this regulation listed under Department of Social Services.

DEPARTMENT OF COMMERCE

October 11, 1988 - 10 a.m. – Open Meeting
Department of Social Services, Pembroke Office Park, Pembroke IV, Suite 300, Conference Rooms A and B, Virginia Beach, Virginia

The department will meet to conduct a formal administrative hearing regarding Department of Commerce v. Flair Beauty Institute, No. 2.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

STATE BOARD FOR COMMUNITY COLLEGE SYSTEMS

† **September 14, 1988 - 3 p.m. – Open Meeting**
James Monroe Building, Board Room, 15th Floor, Richmond, Virginia.

State board committees will meet.

† **September 15, 1988 - 9 a.m. – Open Meeting**
James Monroe Building, Board Room, 15th Floor, Richmond, Virginia.

State board meeting. Agenda unavailable.

Contact: Joy Graham, James Monroe Bldg., 101 N. 14th St., Richmond, Va., telephone (804) 225-2126

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

† **September 26, 1988 - 10 a.m. – Public Hearing**
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of

Calendar of Events

Conservation and Historic Resources intends to amend regulations entitled: **VR 215-01-01. Standards for Classification of Real Estate as Devoted to Open Space Use Under the Virginia Land Use Assessment Law.** The proposed amendments clarify existing requirements and strengthen eligibility standards for real estate devoted to open space preserved or provided for park or recreational purposes, conservation of land or other natural resources, floodways, historic or scenic purposes, and consistent with the local land use plan.

STATEMENT

Basis: The proposed amendments are based on the 1988 amendments to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1 of the Code of Virginia, which provides for the special classification and tax assessment of real estate to promote open-space land preservation. The specific amended Code sections which provide the basis for the proposed regulatory changes are §§ 58.1-3230 and 58.1-3233 of the Code of Virginia.

Purpose: The purposes of the proposed amendments are:

1. To incorporate the 1988 legislative amendments into the department's standards for classifying real estate devoted to open-space land use.

2. To provide uniform standards for written commitments entered into by landowners with local governing bodies to preserve and protect open-space land use in order to allow real estate which is subject to such commitments to qualify for special real estate tax assessment.

3. To clarify the standards by which local assessing officials determine whether real estate qualifies for open-space land use assessment.

4. To remove obsolete and redundant language, and to make other editorial changes of a nonsubstantive nature.

Impact: These proposed amendments apply to all local governing bodies with authority to assess and tax real estate, and to all landowners who desire to obtain real estate taxation based on use, rather than fair market value. The proposed amendments are expected to provide increased opportunities for landowners to obtain special tax assessment for qualifying real estate, while at the same time providing local governing bodies with additional means for assuring the preservation and protection of open-space land use.

Statutory Authority: §§ 10.1-104 and 58.1-3230 of the Code of Virginia.

Written comments may be submitted until November 11, 1988, to B. C. Leynes, Jr., Director, Department of Conservation and Historic Resources, 203 Governor Street, Suite 302, Richmond, Virginia 23219.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Historic Resources, 203 Governor St., Suite 302, Richmond, Va. 23219, telephone (804) 786-4570

Falls of the James Advisory Committee

† **September 16, 1988 - noon** – Open Meeting

† **October 21, 1988 - noon** – Open Meeting

Richmond City Hall, 3rd Floor Conference Room, Richmond, Virginia

A regular meeting to discuss issues relating to the Falls of the James Scenic River.

Contact: Richard G. Gibbons, Department of Conservation and Historic Resources, Division of Parks and Recreation, 203 Governor St., Richmond, Va. 23219, telephone (804) 786-4132

Greenways Advisory Committee

† **September 14, 1988 - noon** – Open Meeting

203 Governor Street, Suite 200, Richmond, Virginia

A regular meeting to discuss issues relating to the growth and expansion of Greenways and trails in Virginia.

Contact: Richard Groover, Department of Conservation and Historic Resources, Division of Parks and Recreation, 203 Governor St., Richmond, Va. 23219, telephone (804) 786-4132

VIRGINIA HISTORIC LANDMARKS BOARD AND THE STATE REVIEW BOARD OF THE DIVISION OF HISTORIC LANDMARKS

† **September 20, 1988 - 10 a.m.** – Open Meeting

State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A joint meeting of the Virginia Historic Landmarks Board and the State Review Board to consider the FY 1989 Work program and to consider the addition of the following properties to the Virginia Landmarks Register and their nomination to the National Register of Historic Places:

1. Col Alto, Lexington
2. French's Tavern, Powhatan
3. Greenway, Madison County
4. Nottoway Archaeological Site, Sussex County
5. Slaughter-Hill House, Town of Culpeper, Culpeper County
6. John Waddey Carter House, Martinsville
7. Wheatland, Essex County

Contact: Margaret Peters, Information Officer, Department of Conservation and Historic Resources, Division of Historic Landmarks, 221 Governor St., Richmond, Va.

23219, telephone (804) 786-3143 or SCATS 786-3143

STATE BOARD FOR CONTRACTORS

† **October 19, 1988 - 9 a.m.** - Open Meeting
Travelers Building, 3600 West Broad Street, Richmond,
Virginia. ☐

A quarterly meeting of the board to (i) address policy and procedural issues, (ii) review and render decisions on applications for contractors' licenses, (iii) review staff recommendations for revisions to its rules and regulations, (iv) and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a large portion of the board's business will be discussed in Executive Session.

Contact: Laster G. Thompson, Jr., Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

STATE BOARD OF CORRECTIONS

† **September 14, 1988 - 10 a.m.** - Open Meeting
6900 Atmore Drive, Board of Corrections Board Room,
3053A 3rd Floor, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, Va. 23225, telephone (804) 674-3235

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

October 18, 1988 - 7 p.m. - Public Hearing
Board of Corrections Meeting Room, 6900 Atmore Drive,
Richmond, Virginia

October 20, 1988 - 7 p.m. - Public Hearing
Marriott Hotel, 2801 Hershberger Road, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to adopt regulations entitled: **VR 230-30-002. Community Diversion Program Standards.** These regulations establish minimum standards for the administration and operation of community diversion programs.

Statutory Authority: § 53.1-182 of the Code of Virginia.

Written comments may be submitted until October 14, 1988.

Contact: Robert S. Cooper, Manager, Community Alternatives, 5306-A Peters Creek Road, Roanoke, Va.

24019, telephone (703) 982-7430 or SCATS 676-7430

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† **November 15, 1988** - Written comments may be submitted until this date.

Title of Regulations: **VR 230-40-001. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.**

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services.

VIRGINIA BOARD OF COSMETOLOGY

October 4, 1988 - 10 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. ☐

A meeting to conduct a formal administrative hearing regarding Virginia Board of Cosmetology v. Flair Beauty Institute, No. 2.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

CRIMINAL JUSTICE SERVICES BOARD

† **October 5, 1988 - 11 a.m.** - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system.

Committee on Criminal Justice Information Systems

† **October 6, 1988 - 10 a.m.** - Open Meeting
Ninth Street Office Building, 9th and Grace Streets,
Governor's Cabinet Conference Room, 6th Floor,
Richmond, Virginia. ☐

A meeting to discuss projects and business of the committee.

Virginia Juvenile Justice and Delinquency Prevention Advisory Committee

† **September 15, 1988 - 10 a.m.** - Open Meeting
Location to be announced. ☐

A meeting to discuss matters relating to the prevention and treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth.

Calendar of Events

For more information, call Nancy Wilhelm-Ross at (804) 786-4000.

Committee on Training

† **October 5, 1988 - 9 a.m.** — Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000 or SCATS 786-4000

DANVILLE LOCAL EMERGENCY PLANNING COMMITTEE

† **September 15, 1988 - 3 p.m.** — Open Meeting
Municipal Building, 2nd Floor Conference Room, Danville, Virginia. ☐

Local committee, SARA Title III. Hazardous Material Community Right-to-Know.

Contact: C. David Lampley, Chairman, LEPC, 297 Bridge St., Danville, Va. 24541, telephone (804) 799-5228

VIRGINIA BOARD OF DENTISTRY

September 14, 1988 - 8 a.m. — Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, NW, Roanoke, Virginia. ☐

General board business including reports from various committees. Formal hearings and election of officers.

September 15, 1988 - 9 a.m. — Public Hearing
Rehabilitation Center Auditorium, Belleview at Jefferson Streets, Roanoke Memorial Hospitals, Roanoke, Virginia

A public hearing on proposed regulations for the Virginia Board of Dentistry.

September 15, 1988 - 2 p.m. — Open Meeting
September 16, 1988 - 1:30 p.m. — Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, NW, Roanoke, Virginia. ☐

General board business including reports from various committees. Formal hearings.

September 23, 1988 - 9 a.m. — Open Meeting
September 28, 1988 - 10 a.m. — Open Meeting
NOTE: CHANGE OF MEETING TIME
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

Informal conferences.

Contact: N. Taylor Feldman, Executive Director, Board of Dentistry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906 or SCATS 662-9906

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September 15, 1988 - 9 a.m. — Public Hearing
Roanoke Memorial Hospitals, Rehabilitation Center Auditorium, Belleview at Jefferson Streets, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Dentistry intends to amend regulations entitled: **VR 225-01-1. Virginia Board of Dentistry Regulations.** The proposed regulations establish requirements for administration of general anesthesia and conscious sedation; for the use of hand-over-mouth management techniques; and for the issuance of full-time faculty licenses. Also proposes fee adjustments and provisions for reexamination in radiation safety.

Statutory Authority: § 54-175.3 of the Code of Virginia.

Written comments may be submitted until September 15, 1988.

Contact: N. Taylor Feldman, Executive Director, Board of Dentistry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906 or SCATS 662-9906

STATE BOARD OF EDUCATION

September 26, 1988 - 9 a.m. — Open Meeting
September 27, 1988 - 9 a.m. — Open Meeting
Wise County School Board Office, Wise, Virginia.
(Interpreter for deaf provided if requested)

The Board of Education will hold its regularly scheduled meeting on September 26-27, 1988. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

October 27, 1988 - 9 a.m. — Open Meeting
October 28, 1988 - 9 a.m. — Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms D & E, Richmond, Virginia. ☐

The Board of Education will hold its regularly scheduled meeting on October 27-28, 1988. Business will be conducted according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret Roberts, James Monroe Bldg., 101 N.

14th St., 25th Fl., Richmond, Va. 23219, telephone (804) 225-2540

DEPARTMENT OF EDUCATION (STATE BOARD OF)

† **November 15, 1988** – Written comments may be submitted until this date.

Title of Regulation: **VR 270-01-003. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.**

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services:

COUNCIL ON THE ENVIRONMENT

† **September 26, 1988 - 7:30 p.m.** – Open Meeting
Donaldson Brown Continuing Education Center, Virginia Polytechnic Institute and State University, Conference Room C, Blacksburg, Virginia

† **September 27, 1988 - 7:30 p.m.** – Open Meeting
James Madison University, Chandler Hall, South Main Street, Harrisonburg, Virginia

† **September 28, 1988 - 7:30 p.m.** – Open Meeting
Upper Occoquon Sewage Authority, 14631 Compton Road, Board Meeting Room, Administration Building, Centreville, Virginia

† **September 29, 1988 - 7:30 p.m.** – Open Meeting
Paul D. Camp Community College, College Drive, Room 143, Franklin, Virginia

Notice of intent to hold a public scoping meeting to receive comments on the range of issues that should be considered in a comprehensive review of pesticides management in Virginia.

(See General Notices section of this issue of the Virginia Register.)

Contact: Jay Roberts, Environmental Programs Analyst, Ninth Street Office Bldg., Room 903, Richmond, Va. 23219, telephone (804) 786-4500 or SCATS 786-4500

LOCAL EMERGENCY PLANNING COMMITTEE OF FAIRFAX COUNTY - TOWN OF VIENNA - CITY OF FAIRFAX - TOWN OF HERNDON

† **October 13, 1988 - 10 a.m.** – Open Meeting
Wood Municipal Center, Old Lee Highway, Fairfax, Virginia

The committee is meeting in accordance with SARA Title III in order to carry out the provisions required within.

Contact: Melanie Pearson, Community Information Coordinator, 4031 University Dr., Suite 400, Fairfax, Va. 22030, telephone (703) 246-2331

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

October 7, 1988 - 10 a.m. – Open Meeting
Main Conference Room, Virginia Museum of Fine Arts, Richmond, Virginia.

The board will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Architect, Rancorn, Wildman & Krause, Architects, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

VIRGINIA STATE BOARD OF GEOLOGY

September 15, 1988 - 10 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes of April 20, 1988, meeting; (ii) review applications; (iii) discuss correspondence; and (iv) grade examinations.

Contact: Bonnie S. Salzman, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-553-3016 or SCATS 367-8514

GEORGE MASON UNIVERSITY

Board of Visitors

† **September 20, 1988 - 3 p.m.** – Open Meeting
George Mason University, Student Union II, Rivanna Lane, Fairfax, Virginia. ☐

The annual meeting of the Board of Visitors of George Mason University whereby the President of the University will present the "state of the university" report; whereby the board will elect officers and committee chairpersons; and whereby the board will hear reports from the standing committees of the board; and to act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals or organizations who request it.

Standing committee meetings will be held on September 19, 1988, at 6:30 p.m. and during the day on September 20, 1988, prior to the board meeting.

Calendar of Events

Contact: Ann Wingblade, Office of the President, George Mason University, 4400 University Dr., Fairfax, Va. 22030, telephone (703) 323-2041

GLoucester LOCAL EMERGENCY PLANNING COMMITTEE

† September 28, 1988 - 6:30 p.m. - Open Meeting
Old Courthouse, Court Green, Gloucester, Virginia. ☒

The local emergency planning committee will meet in a work session to review the final draft of the County Hazardous Materials Response Plan.

The local emergency planning committee will not meet in October.

Contact: Georgette N. Hurley, Assistant County Administrator, P. O. Box 329, Gloucester, Va. 23061, telephone (804) 693-4042

GOOCHLAND COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

September 20, 1988 - 8 p.m. - Open Meeting
General District Courtroom, Goochland Courthouse, Virginia

The Local Emergency Operations Plan will be reviewed and topics such as air borne toxic substances discussed.

Contact: Gregory K. Wolfrey, County Administrator, P. O. Box 10, Goochland, Va. 23063, telephone (804) 556-5300 or (804) 749-3715

HANOVER COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† September 13, 1988 - 7:30 p.m. - Open Meeting
Hanover Courthouse Volunteer Fire Department, Route 1004, Hanover, Virginia. ☒

A review of hazardous materials emergency plans.

Contact: John Trivellin, Hazardous Materials Coordinator, P. O. Box 470, Hanover County, Va. 23069, telephone (804) 798-8554

HARRISONBURG/ROCKINGHAM LOCAL EMERGENCY PLANNING COMMITTEE

† September 13, 1988 - 3 p.m. - Open Meeting
Maryland Avenue Fire Station, Harrisonburg, Virginia

A meeting to review draft of emergency plan.

Contact: J. M. Russell, Jr., Chairperson, H/R LEPC,

Manager, Environmental Engineering, Merck & Co., P. O. Box 7, Elkton, Va. 22827-0007, telephone (703) 298-4110

HAZARDOUS MATERIALS EMERGENCY RESPONSE ADVISORY COUNCIL

Training Study Committee

September 21, 1988 - 9 a.m. - Open Meeting
Radisson Hotel Virginia Beach, 1900 Pavilion Drive, Virginia Beach, Virginia

The meeting will focus on the formation of a permanent Hazardous Materials Training Committee to include membership, committee functions and responsibilities.

Contact: Captain Lou Stark, Chairman, Newport News Fire Department, 2400 Washington Ave., Newport News, Va. 23607, telephone (804) 247-8404

DEPARTMENT OF HEALTH (STATE BOARD OF)

NOTE: CHANGE IN PUBLIC HEARING DATE
November 3, 1988 - 2 p.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **VR 355-28-01.02. Regulations for Disease Reporting and Control.** These regulations explain the requirements for reporting communicable diseases, toxic substances related diseases, and cancer to the health department, including defining who is required to report, which diseases are reportable, and what mechanisms are available for reporting. The amendments to the regulation are proposed as a result of current national disease control initiatives, recent changes to the Code of Virginia, or both. They will enable the Virginia Department of Health to monitor diseases of public health importance, including conditions which have only recently achieved such importance.

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

Written comments may be submitted until October 31, 1988.

Contact: Diane Woolard, M.P.H., Senior Epidemiologist, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6261 or SCATS 786-6261

COUNCIL ON HEALTH REGULATORY BOARDS

Legislation Committee

† September 14, 1988 - 10 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will review legislation proposal by boards within the Department of Health of Regulatory Boards.

Public Information Committee

† September 13, 1988 - 10 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The committee will review policies, procedures and products of the Department of Health Regulatory Boards public information program.

Scope and Standards Committee

† September 13, 1988 - 3 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The committee will continue its review of the regulation of acupuncture and professional counseling and the need for review of the level and scope of regulation of currently regulated health professions in Virginia.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23219, telephone (804) 662-9904 or SCATS 662-9904

DEPARTMENT OF HEALTH REGULATORY BOARDS

Task Force on Anabolic Steroids

† September 26, 1988 - noon - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The Task Force will continue its review of anabolic steroids use and misuse among minors in response to House Joint Resolution 88 of th 1988 General Assembly.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23219, telephone (804) 662-9904 or SCATS 662-9904

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† September 28, 1988 - 9:30 a.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh

Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

SECRETARY OF HEALTH AND HUMAN RESOURCES

Task Force on X-ray Technicians and Their Practice

† September 23, 1988 - 10 a.m. - Open Meeting
Ninth Street Office Building, Cabinet Conference Room, 6th Floor, Richmond, Virginia. ☒

An organizational meeting of the Task Force will be convened in response to House Joint Resolution 82 of the 1988 General Assembly.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23219, telephone (804) 662-9904 or SCATS 662-9904

HENRICO COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† September 22, 1988 - 7 p.m. - Open Meeting
Henrico County Administration Building, Managers Conference Room, Richmond, Virginia. ☒

Proposed adoption of County Chemical Emergency Preparedness Plan.

Contact: Timothy H. Reid, Assistant Emergency Services, Coordinator, Division of Fire, Public Safety Building, Parham and Hungary Springs Roads, Richmond, Va. 23273, telephone (804) 672-4906

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† September 19, 1988 - 9:30 a.m. - Open Meeting
† September 20, 1988 - 8:30 a.m. - Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia. ☒

This will be the regular monthly meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will review and, if appropriate, approve the minutes from the prior monthly meeting; will consider for approval and ratification mortgage loan commitments under its various programs; will review the authority's operations for the prior month; and will consider such other matters and take such other actions as it may deem appropriate. The planned agenda of the meeting

Calendar of Events

will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

October 17, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-1. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations/1985 Edition.** The proposed amended guidelines will allow for comments from the general public prior to the completion of a final draft of proposed regulations.

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

Written comments may be submitted until October 17, 1988.

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

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October 17, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987 Edition.** The purpose is to provide one uniform Fire Prevention Safety Standard and maintenance of buildings. Enforcement is optional by local government or by the State Fire Marshal in localities choosing not to enforce the Fire Prevention Code.

Statutory Authority: § 27-94 of the Code of Virginia.

Written comments may be may until October 17, 1988.

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

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October 17, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I New Construction Code/1987 Edition.** The purpose is to provide minimum statewide building construction standards for the design, construction, use and repair of buildings and structures. The proposed amendments add a new section to regulate the construction of magazines for explosive storage; require building security measures; provide additional rest room facilities for women at places of public assembly; increase the requirement for 2-hour fire walls between dwelling units.

Statutory Authority: §§ 36-97 - 36-107 of the Code of Virginia.

Written comments may be submitted until October 17, 1988.

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

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† **September 30, 1988 -** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Housing and Community Development intends to adopt regulations entitled: **VR 394-01-104. Congregate Housing.** This regulation provides program guidelines for administering the congregate housing program throughout Virginia and it establishes program guidelines for eligible properties and applicants for low interest loans.

STATEMENT

Purpose: The proposed program guidelines for Congregate Housing provide the basic technical and administrative framework for administering the program throughout Virginia.

Basis: To be adopted according to §§ 36-141 et seq. of the Code of Virginia.

Impact: The program impacts all owners of congregate housing which meet program requirements. The program makes available low interest loans for the construction and rehabilitation of congregate housing.

Statutory Authority: Chapter 9 (§ 36-141 et seq.) of Title 36

of the Code of Virginia.

Written comments may be submitted until September 30, 1988.

Contact: Pamela R. Coaxum, Program Manager, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-1575

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† **September 30, 1988** - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Housing and Community Development intends to adopt regulations entitled: **VR 394-01-102. Single Family Rehabilitation and Energy Conservation Loan Program.** This regulation provides the program guidelines for administering single family rehabilitation program throughout Virginia and establishes program guidelines for eligible properties and applicants for low interest loans.

STATEMENT

Purpose: The proposed program guidelines for the Single Family Rehabilitation and Energy Conservation Loan Program provide the basic technical and administrative framework for administering the program throughout the Commonwealth.

Basis: To be adopted according to §§ 36-141 et seq. of the Code of Virginia.

Impact: The program impacts all owners of single family property which meet program requirements. The program makes available low interest loan moneys for the rehabilitation of single family property.

Statutory Authority: Chapter 9 (§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Written comments may be submitted until September 30, 1988.

Contact: Pamela R. Coaxum, Program Manager, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-1575

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† **September 30, 1988** - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Housing and Community Development intends to adopt

regulations entitled: **VR 394-01-103. Multifamily Rehabilitation and Energy Conservation Loan Program.** This regulation provides program guidelines for administering the multifamily rehabilitation program throughout Virginia and establishes program guidelines for eligible properties and applicants for low interest loans.

STATEMENT

Purpose: The proposed program guidelines for the Multifamily Rehabilitation and Energy Conservation Loan Program provide the basic technical and administrative framework for administering the program throughout Virginia.

Basis: To be adopted according to §§ 36-141 et seq. of the Code of Virginia.

Impact: The program impacts all owners of multifamily property which meet program requirements. The program makes available low interest loan moneys for the rehabilitation of rental housing made available to low and moderate income Virginia residents.

Statutory Authority: Chapter 9 (§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Written comments may be submitted until September 30, 1988.

Contact: Pamela R. Coaxum, Program Manager, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-1575

COUNCIL ON INDIANS

† **October 26, 1988 - 2 p.m.** - Open Meeting

NOTE: CHANGE OF MEETING DATE

Ninth Street Office Building, Cabinet Conference Room, 6th Floor Richmond, Virginia. ☐

A regular meeting to conduct general business and to receive reports from the council standing committees.

Contact: Mary Zoller, Special Assistant, Virginia Council on Indians, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9285 or SCATS 662-9285

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

September 15, 1988 - 9 a.m. - Open Meeting

State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

A regular quarterly meeting. Public session begins at 9

Calendar of Events

a.m. and council meeting at 10 a.m.

Contact: Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2381 or SCATS 786-2381

STATE LAND EVALUATION ADVISORY COUNCIL

September 20, 1988 - 10 a.m. - Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☒

A meeting to set suggested ranges of values for agricultural, horticultural, forest and open-space land use under the use-value assessment program.

Contact: Otho C. W. Fraher, Director, Property Tax Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8020

LOCAL EMERGENCY PLANNING COMMITTEE - SCOTT COUNTY

September 27, 1988 - 2:30 p.m. - Open Meeting
County Office Building, Gate City, Virginia. ☒

Update of progress of draft of Scott County's emergency response plan for Superfund Amendments and Reauthorization Act (SARA).

† **October 17, 1988 - 2:30 p.m. - Open Meeting**
County Office Building, Gate City, Virginia. ☒

A meeting of LEPC to discuss final approval of Annex A.7 "Airborne Hazardous Substances" to Scott County's Emergency Operations Plan.

Contact: Barbara Edwards, Public Information Officer, 112 Water St., Suite 1, Gate City, Va. 24251, telephone (703) 386-6521

COMMISSION ON LOCAL GOVERNMENT

September 13, 1988 - 9 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

The commission will hold a regular meeting to consider such issues as may be presented. The meeting will also be utilized for the receipt of testimony from local governments and from state agency officials with respect to the study being conducted under the direction of Item 76 in the Appropriations Act for the 1988-90 Biennium (HB 30). Item 76 directs the commission to "conduct a study of the financial impact of annexation and immunity actions on affected localities with regard to state aid,

mandates, and regulations."

† **October 24, 1988 - 10:30 a.m. - Open Meeting**
Town of Chincoteague, Accomack County area (site to be determined)

Oral presentations regarding the Town of Chincoteague, Accomack County annexation action.

† **October 24, 1988 - 7:30 p.m. - Public Hearing**
Town of Chincoteague, Accomack County area (site to be determined)

Public hearing regarding the Town of Chincoteague, Accomack County annexation action.

Contact: Ted McCormack, Assistant Director, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

STATE LOTTERY DEPARTMENT (BOARD OF)

September 19, 1988 - 2 p.m. - Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Department intends to adopt regulations entitled: **VR 447-01-1. Guidelines for Public Participation in Regulation Development and Promulgation.** This proposed regulation sets out procedures for involving interested parties and the public in the development of the department's regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until September 29, 1988.

Contact: Barbara L. Robertson, Lottery Staff Officer, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

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September 19, 1988 - 2 p.m. - Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Department intends to adopt regulations entitled: **VR 447-02-1. The State Lottery Regulations.** This proposed regulation sets out general operational parameters for the department and board.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until September 29,

1988.

Contact: Barbara L. Robertson, Lottery Staff Officer, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

† **September 19, 1988 - Immediately following 2 p.m. public hearing - Open Meeting**
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

A regularly scheduled monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined.

Contact: Barbara L. Robertson, Lottery Staff Officer, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

September 30, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **VR 460-94-8.2. Home and Community Based Ventilator Services.** This regulation regulates provision of services to ventilator dependent individuals up to age of 21 years.

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

Written comments may be submitted until September 30, 1988, to Charlotte Carnes, Manager, Community Based Care, 600 East Broad, Suite 1300, Richmond, Virginia

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

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October 14, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **VR 460-03-4.194. Nursing Home Payment System (Part III, Appeals).** These proposed regulations establish the process for providers and the department to use for filing appeals to nursing homes per diem rates.

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

Written comments may be submitted until 4:30 p.m., October 14, 1988, to N. Stanley Fields, Director, Provider

Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Richmond, Va. 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933 or SCATS 786-7933

VIRGINIA STATE BOARD OF MEDICINE

† **September 23, 1988 - 1:30 p.m. - Open Meeting**
Ramada Inn, I-95 and Route 3, Fredericksburg, Virginia.

The informal conference committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

Contact: Eugena K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

Acupuncture Committee

October 15, 1988 - 10 a.m. - Open Meeting
Embassy Suite Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ☐

A meeting to review acupuncture treatment records, review new acupuncture programs for approval and discuss any other items which may come before the committee.

Ad Hoc Committee on Optometry

September 30, 1988 - 2 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A meeting to review the clinical studies and postgraduate training of optometry relating to didactic therapeutic training.

Chiropractic Examination Committee

September 22, 1988 - noon - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

The Chiropractic Examination Committee will meet in open and executive session for the purpose of reviewing and developing chiropractic questions for the January, 1989 exam.

Calendar of Events

Credentials Committee

October 1, 1988 - 8:15 a.m. - Open Meeting
† **December 3, 1988 - 8:15 a.m. - Open Meeting**
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, 2nd Floor, Board Room 1, Richmond, Virginia. ☒

The Credentials Committee will meet to conduct general business, interview, and review medical credentials of applicants applying for licensure in Virginia in open and Executive Session and discuss any other items which may come before this committee.

Executive Committee

September 30, 1988 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

A meeting to review (i) proposed legislation for the 1988-1989 General Assembly Session, (ii) Licensure of Clinical Psychologists, (iii) case files and (iv) any other items which may come before the committee.

Podiatry Examination Committee

September 16, 1988 - 9 a.m. - Open Meeting
Springfield Hilton, 6550 Loisdale Road, Springfield, Virginia. ☒

A meeting to develop examination questions for the board's podiatry examination and discuss any other business which may come before the committee.

Respiratory Therapy Committee

† **October 11, 1988 - 10 a.m. - Open Meeting**
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

A meeting to draft legislative changes for the mandatory certification and to discuss any other items which may come before the committee.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **September 28, 1988 - 9:30 a.m. - Open Meeting**
Norfolk Community Services Board, 201 Granby Mall Building, Norfolk, Virginia. ☒

A regular monthly meeting. The agenda will be

published on September 21 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Board Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

September 14, 1988 - 9 a.m. - Open Meeting
Hotel Roanoke, Roanoke, Virginia. (Interpreter for deaf provided if requested)

Meeting of Virginia's Early Intervention Coordinating Council for Part H, Public Law 99-457. The council is to advise and assist the DMHMRSAS as lead agency to administer Part H, in the development and implementation of a statewide interagency, multidisciplinary system of early intervention services for infants and toddlers with disabilities, ages birth through two.

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3710

Forensic Issues Advisory Committee

† **October 6, 1988 - 2 p.m. - Open Meeting**
Institute of Law, Psychiatry and Public Policy, Charlottesville, Virginia

A regular meeting to discuss issues related to the provision of forensic mental health, mental retardation and substance abuse services.

Contact: Russell C. Petrella, Ph.D., Director of Forensic Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-4837

Prevention and Promotion Advisory Council

† **September 23, 1988 - 9 a.m. - Open Meeting**
James Madison Building, 109 Governor Street, 8th Floor Conference Room, Richmond, Virginia. ☒

A meeting to discuss final version of Prevention Plan and "marketing" of plan.

Contact: Tamara Copeland, Office of Prevention, or Susan Geller, Promotion and Library Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-1530

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† **November 15, 1988** – Written comments may be submitted until this date.

Title of Regulation: VR 470-02-01. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

NOTICE: Refer to Notice of Comment Period listed under the Department of Social Services.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

October 8, 1988 - 8 a.m. – Open Meeting
The Virginia Military Institute, Smith Hall, Board Room, Lexington, Virginia. ☒

Regular fall meeting of the VMI Board of Visitors to consider committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, Va. 24450, telephone (703) 463-6206

MILK COMMISSION

† **September 21, 1988 - 11 a.m.** – Open Meeting
Ninth Street Office Building, Ninth and Grace Streets, Room 1015, Richmond, Virginia. ☒

A routine monthly meeting.

Contact: C. H. Coleman, Administrator, Ninth Street Office Bldg., Ninth and Grace Sts., Room 1015, Richmond, Va. 23219, telephone (804) 786-2013

COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

September 12, 1988 - 3 p.m. – Open Meeting
September 13, 1988 - 3 p.m. – Open Meeting
† **October 10, 1988 - 3 p.m.** – Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

Development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P. O. Box 3726, Radford, Va. 24143, telephone (703) 639-9313 or SCATS 676-4012

DEPARTMENT OF MOTOR VEHICLES

September 12, 1988 - 10:30 a.m. – Open Meeting

Virginia Department of Transportation Auditorium, 870 Bonham Road, Bristol, Virginia

September 12, 1988 - 2:30 p.m. – Open Meeting
Roanoke Airport Marriott, Roanoke, Virginia

September 13, 1988 - 10:30 a.m. – Open Meeting
Sheraton Hotel, Woodrow Wilson Parkway, Staunton, Virginia

September 13, 1988 - 2:30 p.m. – Open Meeting
No. Virginia Ramada Renaissance, 13869-71 Park Center Road, Herndon, Virginia

September 14, 1988 - 10:30 a.m. – Open Meeting
DMV Headquarters, 2300 West Broad Street, Richmond, Virginia

September 26, 1988 - 2 p.m. – Open Meeting
Norfolk Airport Hilton, 1500 No. Military Highway, Norfolk, Virginia

September 27, 1988 - 10:30 a.m. – Open Meeting
Holiday Inn, Route 58 & I-85, South Hill, Virginia

The federal Commercial Vehicle Safety Act of 1986 requires each state, including Virginia, to adopt legislation that will ultimately affect anyone who drives a vehicle weighing 26,001 pounds or more, or who drives a vehicle designed to carry 16 or more persons including the driver, or anyone who drives a vehicle of any size which carries hazardous materials required to be placarded.

DMV is planning to submit legislation to the 1989 session of the General Assembly that will bring Virginia into compliance with the impending federal licensing and testing standards.

DMV is conducting public meetings through the Commonwealth for the purpose of introducing and explaining the new requirements. The meetings will provide an opportunity for interested parties to ask questions and make suggestions concerning the federal requirements and how the Commonwealth will implement these new requirements.

Contact: Susan R. Metcalf, Manager, P. O. Box 27412, Richmond, Va. 23269, telephone (804) 367-1930

VIRGINIA MUSEUM OF FINE ARTS

Accessions Committee

† **September 14, 1988 - 2 p.m.** – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue (room to be announced), Richmond, Virginia. ☒

Review of collecting policies, consideration of gifts and purchases of art works.

Calendar of Events

Buildings and Grounds Committee

† September 20, 1988 - 1 p.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove
Avenue, Conference Room, Richmond, Virginia. ☐

Review of proposed future renovation work on the
physical plant at the museum.

Finance Committee

† September 15, 1988 - 10:30 a.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove
Avenue, The Payne Room of the Members' Suite,
Richmond, Virginia. ☐

Review of financial statements and yearly budget.
(First finance committee meeting of the 1988-1989
season.)

Full Board of Trustees

† September 15, 1988 - 11:30 a.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove
Avenue, Virginia Museum Auditorium, Richmond, Virginia.
☐

The first meeting of the full board in 1988-1989
season. Reports from the president, director, and staff.
Review of yearly budget.

Planning Committee

† September 20, 1988 - 8 a.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove
Avenue, Conference Room, Richmond, Virginia. ☐

Consideration of programming for the future.

Contact: Emily C. Robertson, Secretary of the Museum,
Virginia Museum of Fine Arts, Boulevard and Grove Ave.,
Richmond, Va. 23221, telephone (804) 367-0553

VIRGINIA STATE BOARD OF NURSING

† September 22, 1988 - 1 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling
Hills Drive, Conference Room 2, Richmond, Virginia. ☐
(Interpreter for deaf provided if requested)

Two formal hearings will be held to inquire into
allegations that certain laws and regulations governing
the practice of nursing in Virginia may have been
violated.

Contact: Corinne F. Dorsey, R.N., Executive Director,
Board of Nursing, 1601 Rolling Hills Dr., Richmond, Va.
23229, telephone (804) 662-9909, toll free 1-800-533-1560, or
SCATS 662-9909

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September 24, 1988 - 1:30 p.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Virginia State Board of
Nursing intends to amend regulations entitled: VR
495-01-1. Board of Nursing Regulations. The purpose
of these proposed amended and new regulations is to
enable the Board of Nursing to more effectively
discharge its duties as required by § 54-367.11 of the
Code of Virginia in the protection of the health, safety
and welfare of the Citizens of the Commonwealth.
More specifically, the changes in Part II, Nursing
Education Programs, will clarify the standards for
attaining and maintaining the approval of nursing
education programs and facilitate the evaluation of
such programs by visitors representing the board.
Changes proposed in Part III, Licensure and Practice,
are for clarity, to insure proper mailing addresses of
licensees for mailing notices and to establish who may
supervise or direct the practice of licensed practical
nurses as required by § 54-367.2 of the Code of
Virginia as amended by the 1988 session of the
General Assembly.

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

Written comments may be submitted until September 26,
1988.

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

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September 26, 1988 - 9 a.m. - Open Meeting
September 27, 1988 - 9 a.m. - Open Meeting
September 28, 1988 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling
Hills Drive, Richmond, Virginia. ☐

A regular meeting of the Virginia Board of Nursing to
consider matters related to nursing education
programs, discipline of licensees, licensing by
examination and endorsement, and other matters
under jurisdiction of the board. On Monday, September
26, 1988, at 1:30 p.m., the board will conduct a public
hearing on proposed regulations in House Room C,
General Assembly Building, Capitol Square, Richmond.
Depending on the extent of public comment, the board
may take action on proposed regulations before the
close of the meeting on September 28, 1988.

October 25, 1988 - 1 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling
Hills Drive, Richmond, Virginia. ☐

A meeting of the Virginia Board of Nursing to respond to public comment on proposed regulations and take action on regulations if such action cannot be taken at meeting scheduled September 26-28, 1988. Other matters under the jurisdiction of the board may be considered.

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

Informal Conference Committee

† October 11, 1988 - 8:30 a.m. - Open Meeting
† November 4, 1988 - 8:30 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, toll free 1-800-533-1650, or SCATS 662-9909

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

† September 15, 1988 - 9 a.m. - Open Meeting
† September 16, 1988 - 9 a.m. - Open Meeting
The Koger Executive Center, Surry Building, 1601 Rolling Hills Drive, Conference Rooms 1, 2 and 3, Richmond, Virginia. ☒

State board examinations and general board meeting.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9111

COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

October 13, 1988 - 1:30 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to consider and act upon matters related to the certification and practice of nurse practitioners.

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

BOARD OF OPTOMETRY

† October 12, 1988 - 9 a.m. - Open Meeting
Supreme Court Building, Judicial Conference Room, 3rd Floor, Richmond, Virginia. ☒

A meeting to conduct general business.

Contact: Moira C. Lux, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

† November 12, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: VR 510-01-1. Regulations of the Board of Optometry. The proposed regulations establish a minimum series of procedures to be performed and documented during eye examinations by optometrists.

STATEMENT

Basis: § 54-376 of the Code of Virginia authorizes the Board of Optometry to adopt regulations.

Purpose: The proposed regulations state procedures that must be performed by optometrists during eye examinations. The purpose of the regulations is to assure that the public receives eye examinations thorough enough to protect their health. The regulations specify a series of procedures for which record entries must be made during routine, contact lens, and follow-up examinations, and make it unprofessional conduct to fail to maintain these records or to perform procedures critical to protecting a patient's welfare. By requiring a record entry, evidence will be available to determine whether an optometrist has performed all of the tests pertinent to an individual's eye health.

Impact:

A. Regulated entities: Virginia's 997 licensed optometrists are subject to the proposed regulation.

B. Projected costs to the regulated: The regulations will not increase costs for optometrists. The proposal only addresses standards of care, not monetary issues. Most licensed optometrists already conduct and record the procedures enumerated in the proposed rule routinely. The proposals will enhance the board's ability to enforce the law in those rare instances when a practitioner has not delivered standard care.

C. Projected cost to the agency: The proposed regulations will likely result in a cost savings for the Board of Optometry. With the new rule in place, the board's ability to prove substandard care or inadequate

Calendar of Events

record keeping by an optometrist will be improved. The board will be able to resolve complaint cases more readily, and the need to conduct costly hearings and hire expert witnesses will occur less frequently.

D. Source of funds: All of the board's funds come from licensure and examinations fees. No funds are allocated from the Commonwealth's General Fund.

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until November 12, 1988.

Contact: Moira C. Lux, Executive Director, Virginia Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

PETERSBURG LOCAL EMERGENCY PLANNING COUNCIL

† September 15, 1988 - 9 a.m. - Open Meeting
† September 29, 1988 - 9 a.m. - Open Meeting
American Red Cross, 233 South Adams Street, Board Room, Petersburg, Virginia. ☒

A meeting to consider (i) reports from subcommittees, correlation of material from subcommittee into major plan; (ii) new business, if any; (iii) report on progress of plan, exercises or any other related material.

Contact: Captain Thomas C. Hairston, Community Emergency Coordinator, Petersburg Fire Department, 400 E. Washington St., Petersburg, Va. 23803, telephone (804) 733-3951

STATE BOARD OF PHARMACY

† October 6, 1988 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

The Board of Pharmacy will meet to draft regulations on physician dispensing and continue its review.

Contact: Jack Carson, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9921 or SCATS 662-9921

BOARD OF COMMISSIONERS TO EXAMINE PILOTS

† September 13, 1988 - 10 a.m. - Open Meeting
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia. ☒

The board will meet to conduct routine business at its regular quarterly business meeting.

Contact: David E. Dick, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8531 or toll-free 1-800-552-3016

PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

September 23, 1988 - 2 p.m. - Open Meeting
October 7, 1988 - 2 p.m. - Open Meeting
October 21, 1988 - 2 p.m. - Open Meeting
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, Va. 23192-9201, telephone (703) 335-6800

VIRGINIA REAL ESTATE BOARD

September 19, 1988 - 9 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A work session for regulatory review of licensing regulations.

Contact: Joan L. White, Assistant Director, Virginia Real Estate Board, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8552, toll-free 1-800-552-3016 or SCATS 367-8552

BOARD OF REHABILITATIVE SERVICES

† September 30, 1988 - 9:30 a.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will review progress reports on WWRC, consider committee and department recommendations and conduct the regular business of the board.

Finance Committee

† September 29, 1988 - 3 p.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review and comment on the monthly financial report.

Legislation and Analysis Committee

† September 29, 1988 - 1 p.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will consider legislative initiatives and develop policy recommendations for action by the board.

Program Committee

† September 29, 1988 - 2 p.m. - Open Meeting
Woodrow Wilson Rehabilitation Center, Fishersville, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review proposed grants and contracts, review board bylaws, and review comments on proposed regulation amendments.

Contact: James L. Hunter, Board Administrator, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 367-6446, SCATS 367-6446, toll-free 1-800-552-5019/TDD ☎, or 367-0280/TDD ☎

ROANOKE VALLEY LOCAL EMERGENCY PLANNING COMMITTEE

† September 21, 1988 - 9 a.m. - Open Meeting
Salem Civic Center, 1001 Roanoke Boulevard, Room C, Salem, Virginia. ☒

A meeting to receive (i) public comment, (ii) report from community coordinators, and (iii) report from standing committees.

Contact: Warren E. Trent, Coordinator of Emergency Services, 215 Church Ave., S.W., Roanoke, Va. 24011, telephone (703) 981-2425

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

September 14, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permit.

Contact: Deborah E. Randolph, 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-3559

STATE BOARD OF SOCIAL SERVICES

† September 14, 1988 - 2 p.m. - Open Meeting
† September 15, 1988 - 9 a.m. - Open Meeting
Holiday Inn, 700 Monticello Avenue (Waterside area/downtown), Norfolk, Virginia. ☒

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9236 or SCATS 662-9236

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

September 29, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-01-24. Relocation Assistance - General Relief Program.** This regulation establishes a new short-term General Relief Component and identifies the specific criteria that must be met for eligibility for the component.

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

Written comments may be submitted until September 29, 1988, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carolyn Sturgill, Program Specialist, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046

† November 15, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to amend regulations entitled: **VR 230-40-001, VR 270-01-003, VR 470-02-01, VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.** The proposed regulation amends and clarifies those sections of the regulations that define which facilities are subject to regulation under the Core Standards.

STATEMENT

Subject: The regulation establishes the minimum requirements necessary to protect children in care of residential facilities for children. The proposed revision amends and clarifies which facilities are subject to regulation under the Core Standards.

Substance: The Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are responsible for the licensure, certification and/or approval of public and private residential facilities for children.

Calendar of Events

The proposed revision addresses the subjectivity status of state operated facilities that have been exempted from meeting the Core Standards due to attaining accreditation from nationally recognized standards setting bodies.

Issues: The issues which the proposed revisions address are: a 1987 statutory amendment to § 63.1-196.4 of the Code of Virginia delineating the subjectivity status of certain child caring institutions; the changed name of one of the departments participating in the Interdepartmental Licensure and Certification Program; and abolishing the practice of granting exemption from licensure/certification requirements to facilities which have met the standards of nationally recognized accrediting bodies.

Basis: Sections 16.1-311, 22.1-321, 37.1-179.1, 53.1-249, 63.1-196.4 and 63.1-217 of the Code of Virginia provide the statutory basis for promulgation of standards for licensure and certification of residential facilities for children. The State Boards of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services have approved the proposed revisions for a 60-day period of public comment.

Purpose: The purposes of the proposed revisions are to increase the level of protection and safety provided to children in out of home care, assure equity among regulated facilities, and assure the integrity of the licensure/certification process.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-179.1, 63.1-196.4 and 63.1-217 of the Code of Virginia.

Written comments may be submitted until November 15, 1988.

Contact: Linda Struck, Assistant Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

STATE BOARD OF SOCIAL SERVICES AND CHILD DAY-CARE COUNCIL

November 1, 1988 - 4 p.m. -- Public Hearing
Municipal Building, 215 Church Avenue, S.W., Room 450, Roanoke, Virginia

November 2, 1988 - 4 p.m. -- Public Hearing
Hugh Mercer Elementary School, 2100 Cowan Road, AV Room, Fredericksburg, Virginia

November 3, 1988 - 2 p.m. -- Public Hearing
Yorktown Victory Center, Route 238, Yorktown, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services and Child Day-Care Council intend to adopt and amend regulations entitled: **General Procedures**

and Information for Licensure. This regulation describes the rights and responsibilities of licensees and the Department of Social Services during the licensing process. The following issues are addressed in the regulation: the license, the licensing process, allowable variances, informal appeal process, complaint investigation, revocation and denial, licensing office locations and schedule of fees.

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

Written comments may be submitted until October 28, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **September 14, 1988 - 7 p.m. -- Open Meeting**
Anchor Motel, Box 804, Nassawadox, Virginia

A regular bimonthly business meeting.

Contact: Donald L. Wells, Department of Conservation and Historic Resources, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-4356

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September 26, 1988 - 1 p.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to adopt regulations entitled: **VR 625-01-00. Impounding Structure Regulations** and repeal existing regulations of the State Water Control Board entitled: **Impounding Structure Regulations, Regulation No. 9.** The regulation provides for the safe design, construction, alteration and operation and maintenance of impounding structures. Permits for construction or alteration and certificates for operation and maintenance will be issued in accordance with these Impounding Structure Regulations.

Statutory Authority: § 10.1-605 of the Code of Virginia.

Written comments may be submitted until October 29, 1988.

Contact: Robert V. Gay, Chief of Dam Safety, Department of Conservation and Historic Resources, Division of Soil

and Water Conservation, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-2064 or SCATS 786-2064

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† November 15, 1988 - 10 a.m. — Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

DEPARTMENT OF TAXATION

† November 15, 1988 - 10 a.m. — Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled **Virginia Declaration of Estimated Income Tax by Individuals as follows:**

VR 630-2-490.1. Definitions.
VR 630-2-490.2. Delcarations of Estimated Tax.
VR 630-2-492. Failure by Individual to Pay Estimated Tax.

These regulations set forth the filing threshold for filing a declaration of estimated income tax and provide guidance as to when the addition to tax for the underpayment of estimated income tax is applicable.

STATEMENT

Basis: These regulations are issued under the authority granted by § 58.1-203 of the Code of Virginia.

Purpose: These regulations are being amended to conform to the changes made by the 1987 General Assembly to §§ 58.1-490 and 58.1-492 of the Code of Virginia.

Issues: These 1987 legislative amendments to §§ 58.1-490 and 58.1-492 of the Code of Virginia authorized the Tax Commissioner to set the threshold for filing a declaration of estimated income tax by regulation and increased the percentage of individual income tax that must be remitted by means of estimated and/or withholding payments for individuals from 80% to 90%.

Substance: These regulations were initially adopted on an emergency basis and are now being submitted for formal public comment under the provisions of the Administrative Process Act. These regulations set forth the filing threshold for filing a declaration of estimated income tax and provide guidance as to when the addition to tax for the underpayment of estimated income tax is applicable.

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

Written comments may be submitted until November 15, 1988.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8010 or SCATS 367-8010

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled **Fiduciary Estimated Tax as follows:**

VR 630-5-490. Definitions, Delcaration.
VR 630-5-491. Installment Payments.
VR 630-5-492. Additions to the Tax.

These regulations provide guidance to estates and trusts in complying with the new requirements relating to the estimated tax.

STATEMENT

Basis: These regulations are issued under the authority granted by § 58.1-203 of the Code of Virginia.

The existing provisions relating to installment payments of estimated Virginia income tax by individuals were made applicable to estates and trusts for taxable years beginning on and after January 1, 1988. 1987 Acts c. 484. This followed similar provisions for federal income tax purposes in the Tax Reform Act of 1986.

In order to provide guidance for payments due in 1988, an emergency regulation was promulgated and published in 4:14 V.A.R. 1530-1534 April 11, 1988. Much of the text in these proposed regulations is unchanged from the emergency regulation.

Purpose: These regulations set forth and explain the procedures relating to the new requirements for estates and trusts to make installment payments of estimated tax.

Issues: Although regulations exist for individual estimated tax payments, some provisions are not applicable to estates and trusts, e.g., personal exemptions and standard deductions. Also, distributions to beneficiaries are peculiar to estates and trusts and the impact of distributions on estimated tax needed to be addressed.

Substance: Generally, the policies and procedures in the individual estimated tax regulations are applied to estates and trusts except that references to personal exemptions and the standard or itemized deduction are eliminated.

An estate or trust may make a distribution for the taxable year as much as two months after the due date for the last installment payment of Virginia estimated tax. Federal law permits the fiduciary to designate a portion of the estimated tax payments made by the estate or trust to pass through to the beneficiary as a credit against the beneficiary's estimated tax liability. Virginia law does not contain a similar provision. Instead the regulations provide

Calendar of Events

that the fiduciary and the beneficiary shall take into account only distributions actually made on or before the applicable date when determining if they qualify for an exception to the addition to the tax.

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

Written comments may be may until November 15, 1988.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8010 or SCATS 367-8010

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

November 1, 1988 - 10 a.m. – Public Hearing
Virginia Department of Transportation - Central Office, 1221 East Broad Street, Auditorium, Richmond, Virginia

November 2, 1988 - 10 a.m. – Public Hearing
Virginia Department of Transportation - Suffolk District Office, 1700 North Main Street, Auditorium, Suffolk, Virginia

November 4, 1988 - 10 a.m. – Public Hearing
James McCoart Administration Building, Prince William County Government Complex, 1 County Complex Court, Auditorium, Prince William, Virginia

November 10, 1988 - 10 a.m. – Public Hearing
Virginia Department of Transportation - Staunton District Office, Route 11 (Commerce Road) near the North Corporate Limits of Staunton, Auditorium, Staunton, Virginia

November 15, 1988 - 1 p.m. – Public Hearing
Virginia Highlands Community College, located off Route 140 between Route 11 and Exit 7, Route 81, Auditorium, Abingdon, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Transportation intends to adopt regulations entitled: **VR 385-01-08. Subdivision Street Requirements.** These proposed regulations prescribe the requirements and administrative procedures for the addition of subdivision streets into the secondary system of state highways.

Statutory Authority: §§ 33.1-12(3) and 33.1-229 of the Code of Virginia.

Written comments may be submitted until October 31, 1988, to Gerald E. Fisher, Secondary Roads Engineer, Virginia Department of Transportation, 1401 East Broad Street, Richmond, Va. 23219.

Contact: D.L. Camper, Assistant Secondary Roads Engineer, Virginia Department of Transportation, 1401 E. Broad St.,

Richmond, Va. 23219, telephone (804) 786-2745 or SCATS 786-2745

VIRGINIA RESOURCES AUTHORITY

† **September 13, 1988 - 9 a.m. – Open Meeting**
Martha Washington Inn, Main Street, Abingdon, Virginia

The board will meet to approve minutes of the meeting of August 15, 1988, to review the authority's operations for the prior months, and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., P. O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

October 8, 1988 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Committee meets quarterly to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23277, telephone (804) 371-3145, toll-free 1-800-622-2155, SCATS 371-3145 or 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

September 30, 1988 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of a revised Virginia Voluntary Formulary. The proposed revision to the Formulary adds and deletes drugs and drug products to the Formulary that became effective on November 1, 1987, and a supplement to the Formulary that becomes effective on August 15, 1988.

Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia.

Written comments sent to the above address and received prior to 5 p.m., September 30, will be made a part of the hearing record and considered by the board.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

DEPARTMENT OF WASTE MANAGEMENT (BOARD OF)

September 16, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☐

September 19, 1988 - 7 p.m. - Public Hearing
Virginia Polytechnic Institute and State University, Donaldson Brown Center, Blacksburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Waste Management intends to repeal existing regulations and adopt new regulations entitled: VR 672-20-10. Solid Waste Management Regulations. The regulations provide for siting, permitting, design, construction, and operation of solid waste management facilities. They identify solid wastes that are included.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until September 26, 1988.

Contact: William F. Gilley, Director, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Fl., Richmond, Va. 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

September 12, 1988 - 7 p.m. - Public Hearing
Spotsylvania County Board of Supervisors Room, County Administration Building, Route 208, Spotsylvania, Virginia.

A public hearing to receive comments on the proposed issuance of a National Pollutant Discharge Elimination System (NPDES) Permit for the Chesapeake Corporation, Wood Treating Division, P.O. Box 7938, Fredericksburg, Virginia. The purpose of the hearing is to receive comments on the proposed permit, the issuance or denial of the permit, and the effects of the discharge on water quality or beneficial uses of state waters.

September 26, 1988 - 9 a.m. - Open Meeting
September 27, 1988 - 9 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

A quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P.O. Box 11143, 2111 N. Hamilton St., Richmond, Va. 23230, telephone (804) 367-6829

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October 4, 1988 - 7 p.m. - Public Hearing
Council Chambers, City of Harrisonburg, 345 South Main Street, Harrisonburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: VR 680-16-14. Potomac-Shenandoah River Basin Water Quality Management Plan. The purpose of this action is to amend the five day biochemical oxygen demand loading requirements for Stony Creek at the Bryce Mountain sewage treatment plant and Quail Run at Massanutten sewage treatment plant.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until October 28, 1988, to Doneva Dalton, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Charles T. Mizell, Water Resources Development Supervisor, Valley Regional Office, State Water Control Board, P. O. Box 268, Bridgewater, Va. 22812, telephone (703) 828-2595 or SCATS 332-7879

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October 3, 1988 - 7 p.m. - Public Hearing
City Council Chambers, City Hall, 497 Cumberland Street, 2nd Floor, Bristol, Virginia

October 4, 1988 - 2 p.m. - Public Hearing
Warm Springs Courthouse, Courthouse Road, General District Courtroom, Warm Springs, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: VR 680-21-08. River Basin Section Tables - Water Quality Standards. The purpose is to amend the stream classification for Beaver Creek and the unnamed tributary to Cascades Creek.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be may until 4 p.m., October 28, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Jean Gregory, Water Resources Ecologist, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985 or SCATS 367-6985

Calendar of Events

† **December 12, 1988 - 9 a.m.** – Open Meeting
† **December 13, 1988 - 9 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P. O. Box 11143, 2111 N. Hamilton St., Richmond, Va. 23230, telephone (804) 367-6829

BOARD FOR THE CERTIFICATION OF WATER AND WASTEWATER WORKS OPERATORS

† **September 21, 1988 - 9 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

An open meeting to (i) continue work on regulations and (ii) consider matters which require board action.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

COUNCIL ON THE STATUS OF WOMEN

† **September 27, 1988 - 8:30 p.m.** – Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

Meetings of the standing committees of the Council on the Status of Women.

† **September 28, 1988 - 9 a.m.** – Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

A regular meeting of the Council on the Status of Women to conduct general business and to receive reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9200

LEGISLATIVE MEETINGS

JOINT SUBCOMMITTEE STUDYING ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

† **October 3, 1988 - 10 a.m.** – Open Meeting
† **October 3, 1988 - 1 p.m.** – Public Hearing
Lewis Hall Auditorium, Eastern Virginia Medical School,

700 Olney Road, Room 1035, Norfolk, Virginia

† **October 20, 1988 - 10 a.m.** – Open Meeting
† **October 20, 1988 - 1 p.m.** – Public Hearing
Alexandria Court House, 520 King Street, Circuit Court Room 3, 4th Floor, Alexandria, Virginia.

Working session to discuss AIDS related issues and public hearing to receive testimony from the public.
HJR 31

† **November 15, 1988 - 10 a.m.** – Open Meeting
† **December 8, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A working session to discuss AIDS related issues. HJR 31

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING ALL-TERRAIN VEHICLES

† **October 5, 1988 - 2 p.m.** – Public Hearing
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A public hearing. SJR 6

† **November 1, 1988 - 2 p.m.** – Open Meeting
† **December 1, 1988 - 2 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular meeting of the committee. SJR 6

Contact: Alan B. Wambold, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Amy Wachter, Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

HOUSE APPROPRIATIONS COMMITTEE

† **September 19, 1988 - 9:30 a.m.** – Open Meeting
General Assembly Building, Capitol Square, 9th Floor, Richmond, Virginia. ☒

A regular monthly meeting of the full committee to conduct general business.

Higher Education Subcommittee

† **September 19, 1988 - 1:15 p.m.** – Open Meeting
NOTE: CHANGE OF MEETING TIME AND LOCATION
Massey Cancer Center, 401 College Street, Room G-116,

Richmond, Virginia

A regular meeting of the subcommittee to conduct general business.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Fl., Richmond, Va. 23219, telephone (804) 786-1837

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE CAPITAL OUTLAY AND PUBLIC SAFETY SUBCOMMITTEES

October 12, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittees will receive a report on the 1992 Inmate Forecast, trends in inmate custody classifications, and the status of the Greensville and Buchanan construction projects.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Fl., Richmond, Va. 23219, telephone (804) 786-1837

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE ON JAIL AND JUVENILE DETENTION FACILITY FINANCING

October 12, 1988 - 1:30 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will receive public comment regarding issues involving state support for local jails and juvenile detention facilities.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Fl., Richmond, Va. 23219, telephone (804) 786-1837

JOINT SUBCOMMITTEE STUDYING THE DECLINE OF VIRGINIA'S BOBWHITE QUAIL

† September 15, 1988 - 2 p.m. - Open meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

The subcommittee will receive testimony on current bobwhite quail habitat management programs and practices of private landowners. HJR 114

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

FOR-PROFIT CEMETERIES SUBCOMMITTEE

† September 27, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A working session to discuss proposals before the subcommittee. HJR 73

Contact: Jessica F. Bolececk, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING INVESTIGATIVE PROCEDURES USED IN CHILD ABUSE CASES

September 15, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

Subcommittee will have working session to finalize recommendations. HJR 127

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

MEDIATION OF CHILD SUPPORT, CUSTODY AND VISITATION

† October 3, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The first meeting and working session of the interim for this continued study committee. HJR 246

Contact: Susan C. Ward, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

VIRGINIA COAL AND ENERGY COMMISSION

† September 21, 1988 - 2:30 p.m. - Open Meeting
Southwest Community College, Richlands, Virginia.

† September 22, 1988 - 9 a.m. - Open Meeting
Martha Washington Inn, Abingdon, Virginia.

The commission will receive testimony on acid rain, co-generation, liquid coal technology and an update on the status of the coal industry in Virginia.

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

Calendar of Events

VIRGINIA CODE COMMISSION

October 6, 1988 - 9:30 a.m. - Open Meeting
October 7, 1988 - 9:30 a.m. - Open Meeting
Virginia Beach Hilton, Virginia Beach, Virginia

The commission will continue with the revision of Title 46.1 of the Code of Virginia.

Contact: Joan W. Smith, Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING METHODS OF CLEARING TITLE TO REAL PROPERTY

September 19, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will meet for purpose of discussing statutory right of redemption. HJR 185

October 17, 1988 - 9:30 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

The subcommittee will meet for purpose of discussing partition and other methods of clearing title.

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT MEETING OF HOUSE COMMITTEE ON COUNTIES, CITIES AND TOWNS AND SENATE COMMITTEE ON LOCAL GOVERNMENT

† October 3, 1988 - 1:30 p.m. - Open Meeting
† October 3, 1988 - 2:30 p.m. - Public Hearing
Pavilion Convention Center, 1000 19th Street, Rooms 101 and 102, Virginia Beach, Virginia

1:30 p.m. - Meeting with local government officials and participants in Virginia Municipal League Annual Conference at Virginia Beach.

2:30 p.m. - Meeting and public hearing of joint committees on tree preservation in Commonwealth.

Contact: Persons wishing to speak should contact: Anne R. Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: C. M. Conner, Jr., Staff Attorney, or Dr. R. J. Austin, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE ON COUNTY-TOWN RELATIONS

† October 4, 1988 - 8:30 a.m. - Open Meeting
Pavilion Convention Center, 1000 19th Street, Room 101, Virginia Beach, Virginia

A regular meeting. SJR 7

Contact: Dr. R. J. Austin, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Lucy Dodson, Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

JOINT SUBCOMMITTEE STUDYING CRIMINAL DEFENSE SYSTEMS FOR THE INDIGENT

September 29, 1988 - 10 a.m. - Open Meeting
November 2, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will meet for the purpose of receiving information on post conviction remedies and defense systems in capital cases and other related issues. HJR 141

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING DIESEL ENGINES IN UNDERGROUND COAL MINES

† September 29, 1988 - 10 a.m. - Public Hearing
Mountain Empire Community College, Dalton-Cantrell Hall, Big Stone Gap, Virginia.

A public hearing to receive testimony regarding use of diesel engines in coal mines followed by mining tour for MEMBERS AND STAFF in area mine.

Contact: Persons wishing to speak contact: Anne R. Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: John T. Heard, Staff Attorney, or Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING FIRE PREVENTION SERVICES

September 21, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A public hearing. SJR 67

Contact: Persons wishing to speak should contact: Jessica Bolecek, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591. For additional information contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-4638

SUBCOMMITTEE FROM THE HOUSE OF DELEGATES COMMITTEE ON AGRICULTURE STUDYING WAYS TO IMPROVE VIRGINIA'S FARM ECONOMY

September 27, 1988 - 2 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond,
Virginia. ☐

The subcommittee will meet to discuss the use of agricultural lands for recreational purposes and liability coverage for private property owners offering recreational opportunities. HR 6

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FLOOD CONTROL POLICIES OF THE COMMONWEALTH

† **September 27, 1988 - 2 p.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room
D, Richmond, Virginia. ☐

The subcommittee will have a business meeting followed immediately by a public hearing to receive public comments and recommendations on the Commonwealth's role in flood control.

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

September 14, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room
D, Richmond, Virginia. ☐

October 13, 1988 - 10 a.m. - Open Meeting
November 17, 1988 - 10 a.m. - Open Meeting
December 9, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

The subcommittee will meet to discuss certain issues pertaining to the Virginia Freedom of Information Act and certain other public access laws contained in the

Code of Virginia. HJR 100

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING PRENEED CONTRACTS FOR FUNERAL SERVICES

September 15, 1988 - 10 a.m. - Open Meeting
General Assembly, Capitol Square, 6th Floor Conference
Room, Richmond, Virginia. ☐

A working session to discuss information and testimony from previous meetings. HJR 50

Contact: Jessica F. Bolecek, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING GUARDIANSHIP AND PROTECTIVE SERVICES PROGRAM

† **September 29, 1988 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Senate Room
A, Richmond, Virginia. ☐

A regular meeting. SJR 42/HJR 171

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Lucy Dodson, Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

JOINT SUBCOMMITTEE STUDYING PRACTICES BY WHICH INSURANCE COMPANIES REINSURE ALL OR PARTS OF THE RISKS THEY INSURE, ADVISABILITY OF REPEALING EXEMPTIONS FROM COMMONWEALTH'S ANTITRUST LAWS GRANTING TO THE INSURANCE INDUSTRY AND MEANS OF ASSURING THE CONTINUED AVAILABILITY AND AFFORDABILITY OF LIABILITY INSURANCE COVERAGE

† **September 21, 1988 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room
D, Richmond, Virginia. ☐

This is the third meeting of this subcommittee. The focus of this meeting will be on issues related to the Commonwealth's antitrust laws in the insurance field.
HJR 120

Contact: Persons wishing to speak contact: C. W. Cramme, III, Deputy Director, or Terry Barrett, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591. For additional

Calendar of Events

information contact: Jeff Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23208, telephone (804) 786-2227

COMMISSION ON LOCAL GOVERNMENT STRUCTURES AND RELATIONSHIPS

† **October 3, 1988 - 11:30 a.m.** – Public Hearing
Pavilion Convention Center, 1000 19th Street, Rooms 101 and 102, Virginia Beach, Virginia

The second meeting of the interim to discuss issues of local government relationships. HJR 6

Contact: Dr. R. J. Austin, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING DISCLOSURE OF THE EXISTENCE OF MAJOR HIGHWAY CORRIDORS

September 12, 1988 - 10 a.m. – Public Hearing
Fairfax County Board of Supervisors' Meeting Room, 4100n Chain Bridge Road, Massey Building, "A" Level, Fairfax, Virginia

The purpose of the hearing is to elicit testimony from local government, private enterprise, and concerned citizens regarding disclosure to potential buyers of real estate the existence of planned highways near the property.

Contact: Dr. Phyllis H. Price, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

HOUSE OF DELEGATES MILITIA AND POLICE COMMITTEE

† **October 14, 1988 - (time not yet determined)** – Open Meeting
† **October 15, 1988 - (time not yet determined)** – Open Meeting
Camp Pendleton, Virginia Beach, Virginia

This will be two-day meeting of the committee. The committee will meet on issues pertinent to the Virginia Military Advisory Commission, Virginia National Guard and Virginia Defense Force.

Contact: Jeff Finch, House of Delegates, P. O. Box 406, Richmond, Va. 23208, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING ADMISSIONS OF MINORS TO PSYCHIATRIC HOSPITALS

September 12, 1988 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C,

Richmond, Virginia. ☒

The second in a series of meetings prior to public hearing in October.

Contact: Susan Ward, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING POUND SEIZURE LEGISLATION

September 13, 1988 - 7 p.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Special Conservation and Natural Resources Subcommittee studying pound seizure is holding second of three public hearings on the issue. HB 933

Contact: Persons wishing to speak contact: Anne R. Howard, Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: John T. Heard, Staff Attorney, or Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SALARIES AND BENEFITS OF COMMUNICATIONS OPERATORS OF THE VIRGINIA DEPARTMENT OF STATE POLICE AND RETIREMENT BENEFITS FOR LAW-ENFORCEMENT OFFICERS

† **October 6, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will meet to finalize recommendations. HJR 105

Contact: Regina McNally, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

PRIVILEGES AND ELECTIONS SUBCOMMITTEE STUDYING SCHOOL BOARDS AND FISCAL INDEPENDENCE

September 14, 1988 - 1:30 p.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A special House of Delegates Committee on Privileges and Elections Subcommittee studying the election of school boards in the Commonwealth. HJR 126

Contact: Persons wishing to speak contact: Anne R.

Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: Dr. R. J. Austin, Research Associate, or Mary Spain, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE STATE GRIEVANCE PROCEDURE

† **September 19, 1988 - 10:30 a.m.** - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

A regular meeting. SJR 45

Contact: Jessica Bolecek, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591, or Lucy Dodson, Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

JOINT SUBCOMMITTEE STUDYING SURROGATE MOTHERHOOD

† **September 14, 1988 - 2 p.m.** - Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☐

A regular meeting. SJR 3/HJR 118

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591, or Natalee Grigg, Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

JOINT SUBCOMMITTEE STUDYING SUPPLY AND DEMAND OF NURSES IN THE COMMONWEALTH

October 11, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

A public hearing. HJR 165

Contact: Persons wishing to speak contact: Anne R. Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE OF COUNTIES, CITIES AND TOWNS AND LOCAL GOVERNMENT STUDYING TREE PRESERVATION IN THE COMMONWEALTH

September 16, 1988 - - Public Hearing
Massey Building, 4100 Chain Bridge Road, Supervisors' Meeting Room, Fairfax, Virginia

A special joint subcommittee studying tree preservation is holding two in series of public hearings.

Contact: Persons wishing to speak contact: Anne R. Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681. For additional information contact: C. M. Conner, Jr., Staff Attorney, or Dr. R. J. Austin, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

September 12

Minors to Psychiatric Hospitals, Joint Subcommittee Studying Admissions of
Montgomery, Town of Blacksburg Local Emergency Planning Committee, County of
Motor Vehicles, Department of

September 13

Adult Literacy Committee, State
† Hanover County Local Emergency Planning Committee
† Harrisonburg/Rockingham Local Emergency Planning Committee
† Health Regulatory Boards, Council on
- Public Information Committee
- Scope and Standards Committee
Local Government, Commission on
Montgomery, Town of Blacksburg Local Emergency Planning Committee, County of
Motor Vehicles, Department of
† Pilots, Board of Commissioners to Examine
† Virginia Resources Authority

September 14

Bedford County Local Emergency Planning Committee
† Conservation and Historic Resources, Department of
- Greenways Advisory Committee
† Corrections, State Board of
Dentistry, Virginia Board of
Freedom of Information Act, Joint Subcommittee Studying the
† Health Regulatory Boards, Council on
- Legislation Committee

Calendar of Events

Mental Health, Mental Retardation and Substance Abuse Services, Department of
Motor Vehicles, Department of
† Museum of Fine Arts, Virginia
- Accessions Committee
Sewage Handling and Disposal Appeals Review Board, State
† Social Services, State Board of
† Soil and Water Conservation Board, Virginia
† Surrogate Motherhood, Joint Subcommittee Studying

September 15

† Bobwhite Quail, Joint Subcommittee Studying the Decline of Virginia's
† Cemeteries Subcommittee, For-Profit
Child Abuse Cases, Joint Subcommittee Studying Investigative Procedures Used in
† Criminal Justice Services, Department of
- Virginia Juvenile Justice and Delinquency Prevention Advisory Committee
† Danville Local Emergency Planning Committee
Dentistry, Virginia Board of
Funeral Services, Joint Subcommittee Studying Preneed Contracts for
Geology, Virginia State Board of
Labor and Industry, Department of
- Virginia Apprenticeship Council
† Museum of Fine Arts, Virginia
- Finance Committee
- Full Board of Trustees
† Nursing Home Administrators, Board of Examiners for
† Petersburg Local Emergency Planning Council
† Social Services, State Board of

September 16

† Building Code Technical Review Board, State
† Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee
Dentistry, Virginia Board of
Indians, Council on
Medicine, Virginia State Board of
- Podiatry Examination Committee
† Nursing Home Administrators, Board of Examiners for

September 19

Appropriations Committee, House
- Higher Education Subcommittee
† Audiology and Speech Pathology, Board of Examiners for
Clearing Title to Real Property, Joint Subcommittee Studying Methods of
† Housing Development Authority, Virginia
† Lottery Department, State
Real Estate Board, Virginia
† State Grievance Procedure, Joint Subcommittee Studying

September 20

† Virginia Historic Landmarks Board and the State

Review Board of the Division of Historic Landmarks, Department of
† Guardianship and Protective Services Programs, Joint Subcommittee Studying
† George Mason University
- Board of Visitors
Goochland County Local Emergency Planning Committee
† Housing Development Authority, Virginia
Land Evaluation Advisory Council, State
† Museum of Fine Arts, Virginia
- Buildings and Grounds Committee
- Planning Committee

September 21

† Coal and Energy Commission, Virginia
Hazardous Materials Emergency Response Advisory Council, Training Study Committee of the
† Insurance Companies Reinsure All or Parts of the Risks they Insure, Advisability of Repealing Exemptions from Commonwealth's Antitrust Laws Granting to the Insurance Industry and Means of Assuring the Continued Availability and Affordability of Liability, Joint Subcommittee Studying Practice by Which
† Milk Commission
† Roanoke Valley Local Emergency Planning Committee
Water and Wastewater Works Operators, Board for the Certification of

September 22

† Coal and Energy Commission, Virginia
† Henrico County Local Emergency Planning Committee
Medicine, Virginia State Board of
- Chiropractic Examination Committee
† Nursing, Virginia State Board of

September 23

Dentistry, Virginia Board of
† Secretary of Health and Human Resources
- Task Force on X-Ray Technicians and their Practice
† Medicine, Virginia State Board of
† Mental Health, Mental Retardation and Substance Abuse Services, State Board of
- Prevention and Promotion Advisory Council
Prince William County, Manassas city, and Manassas Park City Local Emergency Planning Committee

September 26

Education, State Board of
† Environment, Council on the
† Health Regulatory Boards, Department of
- Task Force on Anabolic Steroids
Motor Vehicles, Department of
Nursing, Virginia State Board of
Water Control Board, State

September 27

Calendar of Events

Aging, Department for the
Education, State Board of
† Environment, Council on the
Farm Economy, Subcommittee from the House of
Delegates Committee on Agriculture Studying Ways to
Improve Virginia's
† Flood Control Policies of the Commonwealth, Joint
Subcommittee Studying the
Local Emergency Planning Committee - Scott County
Motor Vehicles, Department of
Nursing, Virginia State Board of
Water Control Board, State
† Women, Council on the Status of

September 28

Dentistry, Virginia Board of
† Environment, Council on the
† Gloucester Local Emergency Planning Committee
† Health Services Cost Review Council, Virginia
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Nursing, Virginia State Board of
† Women, Council on the Status of

September 29

Aging, Department for the
Architects, Virginia State Board of
Criminal Defense Systems for the Indigent, Joint
Subcommittee Studying
† Environment, Council on the
† Petersburg Local Emergency Planning Council
† Rehabilitative Services, Board of
- Finance Committee
- Legislation and Analysis Committee
- Program Committee

September 30

Architects, Professional Engineers, Land Surveyors and
Certified Landscape Architects, State Board of
Medicine, Virginia State Board of
- Ad Hoc Committee on Optometry
- Executive Committee
† Rehabilitative Services, Board of

October 1

Medicine, Virginia State Board of
- Credentials Committee

October 3

† Acquired Immunodeficiency Syndrome (AIDS), Joint
Subcommittee Studying
Air Pollution Control Board, State
† Child Support, Custody and Visitation, Mediation of
† Counties, Cities and Towns, and Senate Committee
on Local Government, Joint Meeting of House
Committee on
† Local Government Structures and Relationships,
Commission on

October 4

Agriculture and Consumer Services, State Board of

Air Pollution Control Board, State
- State Advisory Board on Air Pollution
Cosmetology, Virginia Board of
† County-Town Relations, Joint Subcommittee on

October 5

Agriculture and Consumer Services, State Board of
† Criminal Justice Services Board
- Committee on Training

October 6

Chesterfield County, Local Emergency Planning
Committee of
Code Commission, Virginia
† Criminal Justice Services Board
- Committee on Criminal Justice Information Systems
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Forensic Issues Advisory Committee
† Pharmacy, State Board of
† Salaries and Benefits of Communications Operators
of the Virginia Department of State Police and
Retirement Benefits for Law-Enforcement Officers,
Joint Subcommittee Studying

October 7

Code Commission, Virginia
Education, State Board of
General Services, Department of
- Art and Architectural Review Board
Prince William County, Manassas City, and Manassas
Park City Local Emergency Planning Committee

October 8

Military Institute, Virginia
- Board of Visitors
Visually Handicapped, Department for the
- Advisory Committee on Services

October 10

† Montgomery/Town of Blacksburg Local Emergency
Planning Committee, County of

October 11

Commerce, Department of
† Medicine, Virginia State Board of
- Respiratory Therapy Committee
† Nursing, Virginia State Board of
- Informal Conference Committee

October 12

Appropriations and Senate Finance Capital Outlay and
Public Safety, Joint Subcommittee of House
Appropriations and Senate Finance on Jail and
Juvenile Detention Facility Financing, Joint
Subcommittee of House
† Optometry, Board of

October 13

† Fairfax County, Town of Vienna, City of Fairfax,
Town of Herndon, Local Emergency Planning

Calendar of Events

Committee of
Freedom of Information Act, Joint Subcommittee
Studying the
Nursing and Medicine, Committee of the Joint Boards
of

October 14

† Militia and Police Committee, House of Delegates

October 15

Medicine, Virginia State Board of
- Acupuncture Committee
† Militia and Police Committee, House of Delegates

October 17

Clearing Title to Real Property, Joint Subcommittee
Studying Methods of
† Local Emergency Planning Committee - Scott County

October 19

† Contractors, State Board for

October 20

† Acquired Immunodeficiency Syndrome (AIDS), Joint
Subcommittee Studying

October 21

† Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee
Prince William County, Manassas City, and Manassas
Park City Local Emergency Planning Committee

October 24

† Local Government, Commission on

October 25

† Gloucester Local Emergency Planning Committee
Nursing, Virginia State Board of

October 26

† Indians, Council on

October 27

Education, State Board of

October 28

Education, State Board of

November 1

† All-Terrain Vehicles, Joint Subcommittee Studying

November 2

Criminal Defense Systems for the Indigent, Joint
Subcommittee Studying

November 3

Chesterfield County, Local Emergency Planning
Committee of

November 4

† Nursing, Virginia State Board of

- Informal Conference Committee

November 15

† Acquired Immunodeficiency Syndrome (AIDS), Joint
Subcommittee Studying

November 17

Freedom of Information Act, Joint Subcommittee
Studying

December 1

† All-Terrain Vehicles, Joint Subcommittee Studying

December 3

† Medicine, Virginia State Board of
- Credentials Committee

December 9

Freedom of Information Act, Joint Subcommittee
Studying the

December 12

† Water Control Board, State

December 13

† Water Control Board, State

PUBLIC HEARINGS

September 12

Major Highway Corridors, Joint Subcommittee Studying
Disclosure of the Existence of
Water Control Board, State

September 13

Pound Seizure Legislation, Joint Subcommittee Studying

September 14

School Boards and Fiscal Independence, Privileges and
Elections Subcommittee Studying

September 15

Dentistry, Virginia Board of

September 16

Tree Preservation in the Commonwealth, Joint
Subcommittee of Counties, Cities and Towns and Local
Government Studying
Waste Management, Department of

September 19

Lottery Department, State
Waste Management, Department of

September 20

Alcoholic Beverage Control, Department of

September 21

Fire Prevention Services, Joint Subcommittee Studying

Calendar of Events

September 26

† Conservation and Historic Resources, Department of Nursing, Virginia State Board of Soil and Water Conservation Board, Virginia

Board of Transportation/Commonwealth Transportation Board, Department of

September 27

† Flood Control Policies of the Commonwealth, Joint Subcommittee Studying the

November 3

Child Day-Care Council Health, Department of Social Services and Child Day-Care Council, State Board of

September 29

† Diesel Engines in Underground Coal Mines, Subcommittee Studying

November 4

Transportation/Commonwealth Transportation Board, Department of

September 30

Medical Assistance Services, Department of Voluntary Formulary Board, Virginia

November 10

Transportation/Commonwealth Transportation Board, Department of

October 3

† Acquired Immunodeficiency Syndrome (AIDS), Joint Subcommittee Studying
† Counties, Cities and Towns, and Senate Committee on Local Government, Joint Meeting of House Committee on Water Control Board, State

November 15

† Taxation, Department of Transportation/Commonwealth Transportation Board, Department of

October 4

Agriculture and Consumer Services, Department of Water Control Board, State

October 5

† All-Terrain Vehicles, Joint Subcommittee Studying

October 11

Supply and Demand of Nurses in the Commonwealth, Joint Subcommittee Studying

October 17

Housing and Community Development, Board of

October 18

Air Pollution Control, Department of Corrections, Department of

October 20

† Acquired Immunodeficiency Syndrome (AIDS), Joint Subcommittee Studying
Corrections, Department of

October 24

† Local Government, Commission on

November 1

Child Day-Care Council
Social Services and Child Day-Care Council, State Board of
Transportation/Commonwealth Transportation Board, Department of

November 2

Child Day-Care Council
Social Services and Child Day-Care Council, State

Calendar of Events
