

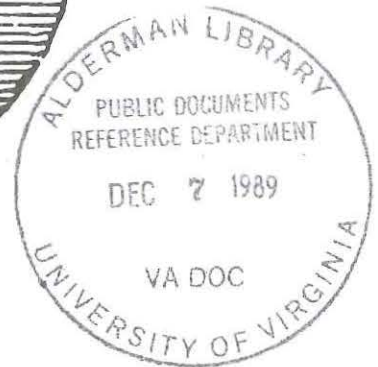
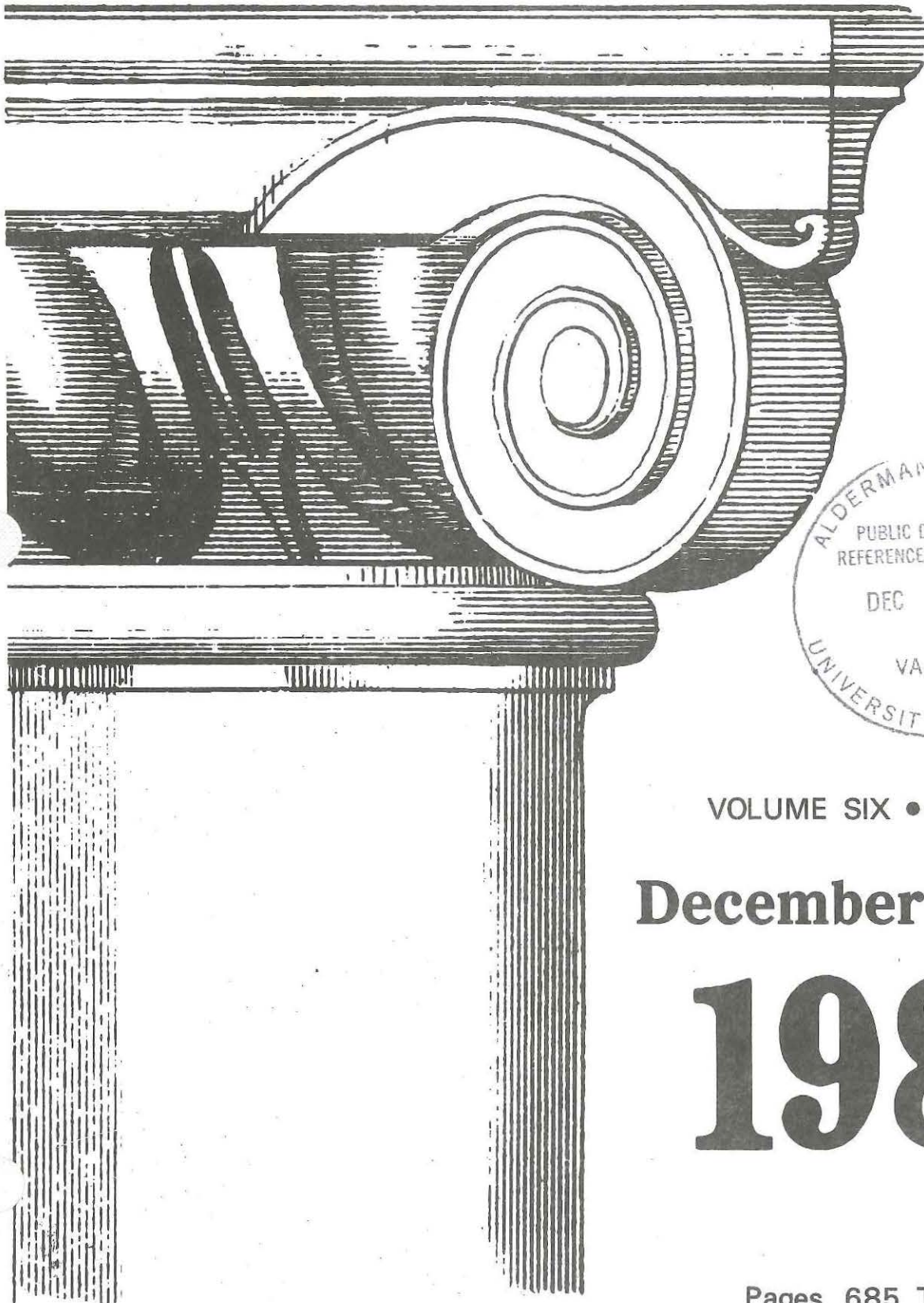
DD
R26/6-5

VA
DOC

THE VIRGINIA REGISTER

OF REGULATIONS

R



VOLUME SIX • ISSUE FIVE

December 4, 1989

1989

Pages 685 Through 826

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14.6 through 9-6.14.9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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

"The *Virginia Register of Regulations*" (USPS-001831) is published bi-weekly, except four times in January, April, July and October for \$85 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. POSTMASTER: Send address changes to the *Virginia Register of Regulations*, P.O. Box 3-AG, Richmond, Virginia 23208-1108.

The *Virginia Register of Regulations* is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14.2 et seq.) of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

Members of the Virginia Code Commission: Dudley J. Emick, Jr., Chairman, J. Samuel Glasscock, Vice Chairman; Russell M. Carneal; Joseph V. Gartlan, Jr.; John Wingo Knowles; Gail S. Marshall; E. M. Miller, Jr.; Theodore V. Morrison; William F. Parkerson, Jr.; A. L. Philpott.

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

VIRGINIA REGISTER OF REGULATIONS
PUBLICATION DEADLINES AND SCHEDULES
July 1989 through September 1990

MATERIAL SUBMITTED BY **PUBLICATION DATE**
Noon Wednesday

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	

Volume 6 - 1989-90

Sept. 20	Oct. 9
Oct. 4	Oct. 23
Oct. 18	Nov. 6
Nov. 1	Nov. 20
Nov. 15	Dec. 4
Nov. 29	Dec. 18
Dec. 13	Jan. 1 1990
Index 1 - Volume 6	

Dec. 27	Jan. 15
Jan. 10	Jan. 29
Jan. 24	Feb. 12
Feb. 7	Feb. 26
Feb. 21	Mar. 12
Mar. 7	Mar. 26
Index 2 - Volume 6	

Mar. 21	Apr. 9
Apr. 4	Apr. 23
Apr. 18	May 7
May 2	May 21
May 16	June 4
May 30	June 18
Index 3 - Volume 6	

June 13	July 2
June 27	July 16
July 11	July 30
July 25	Aug. 13
Aug. 8	Aug. 27
Aug. 22	Sept. 10
Sept. 5	Sept. 24
Final Index - Volume 6	

TABLE OF CONTENTS

PROPOSED REGULATIONS

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Game: In General. (VR 325-02-1)	687
Fish: Trout Fishing. (VR 325-03-2)	687

LIBRARY BOARD

Certification of Librarians. (VR 440-01-149.2)	687
--	-----

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Lump Sum Ineligibility Period in the Aid to Dependent Children (ADC) Program. (615-01-2)	688
--	-----

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Regulations for the Development of Solid Waste Management Plans. (VR 672-50-01)	690
---	-----

FINAL REGULATIONS

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Guide for Minimum Standards in Design and Construction of Jail Facilities. (VR 230-30-005)	700
--	-----

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Definitions and Miscellaneous: In General. (VR 325-01-1)	715
Game: In General. (VR 325-02-1)	716
Fish: Fishing Generally. (VR 325-03-1)	717
Fish: Trout Fishing. (VR 325-03-2)	718
Fish: Seines and Nets. (VR 325-03-3)	718
Watercraft: In General. (VR 325-04-1)	719

DEPARTMENT OF LABOR AND INDUSTRY

Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite (1910.1101). (VR 425-02-26)	719
Asbestos Standard for General Industry (1910.1001). (VR 425-02-09)	719

Asbestos Standard for Construction Industry (1926.58). (VR 425-02-10)	719
---	-----

Formaldehyde Standard (1910.1048) - Virginia Occupational Safety and Health Standards for General Industry. (VR 425-02-35)	720
--	-----

Formaldehyde Standard (1910.1048) - Virginia Occupational Safety and Health Standards for General Industry. (VR 425-02-35)	721
--	-----

Underground Construction Standard. (VR 425-02-65) ..	722
--	-----

Virginia Occupational Safety and Health Standards for General Industry - Standard Concerning Powered Platforms for Building Maintenance (1910.66). (VR 425-02-67)	723
---	-----

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Amount, Duration and Scope of Services (Coverage of Orthoptics). (VR 460-03-3.1100)	725
---	-----

DEPARTMENT OF TAXATION

Corporation Income Tax: Telecommunications Companies. (VR 630-3-400.1)	731
--	-----

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Infectious Waste Management Regulations. (VR 672-40-01)	741
---	-----

EMERGENCY REGULATIONS

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Emergency Amendment to the Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock in Virginia Establishing Disease Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia. (VR 115-02-01)	773
---	-----

Emergency Amendment to the Rules and Regulations Pertaining to the Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia Establishing Testing Requirements for Salmonella Enteritidis. (VR 115-02-07)	776
--	-----

Emergency Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases. (VR 115-02-17)	777
--	-----

Table of Contents

Emergency Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry. (VR 115-02-18) 779

STATE CORPORATION COMMISSION

ORDERS

Proposed Rulemaking Proceeding to Consider Abolishing Current SCC Rules Governing the Certification of Radio Common Carriers and SCC Rules Governing Establishment of Competitive Rates, Charges, and Regulations and Adopting Rules Governing Radio Common Carrier Services. (PUC890042) 783

Adoption of Standards and Procedures to Administer the Stagers Rail Act of 1980. (RRR830003) 788

GOVERNOR

EXECUTIVE ORDERS

Declaration of State of Emergency Arising from Flooding in Buchanan County, Virginia. (76-89) 790

Delegation of Authority Conferred by Chapters 415, 425, 452, 477 and 668 of the 1989 Acts of Assembly. (77-89) 790

COMMENTS

DEPARTMENT OF HEALTH (STATE BOARD OF)

Board of Health Regulations Governing Vital Records. (VR 355-28-01.05) 793

Rules and Regulations Governing Financial Assistance for Emergency Medical Services. (VR 355-32-02) 793

DEPARTMENT OF TAXATION

Corporation Income Tax: Telecommunications Companies. (VR 630-3-400.1) 793

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent 794

GENERAL NOTICES

STATE MILK COMMISSION

Public Hearing Notice Concerning Regulation Numbers 1 and 12 of the Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia. 798

NOTICE TO STATE AGENCIES

Forms for filing material on date for publication in the Virginia Register of Regulations. 798

ERRATA

ALCOHOLIC BEVERAGE CONTROL BOARD

Advertising. (VR 125-01-2) 798

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Amount, Duration and Scope of Services (New Drug Review Program). (VR 460-03-3.1100) 798

STATE WATER CONTROL BOARD

Petroleum Underground Storage Tank Financial Requirements. (VR 680-13-03) 799

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 802

LEGISLATIVE

Open Meetings and Public Hearings 821

CHRONOLOGICAL LIST

Open Meetings 823

Public Hearings 826

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulations:

VR 325-02. GAME.

VR 325-02-1. In General.

VR 325-03. FISH.

VR 325-03-2. Trout Fishing.

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

Public Hearing Date: January 12, 1990 - 10 a.m.

(See Calendar of Events section for additional information)

Public Hearing Notice:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amended board regulation. A public hearing on the advisability of adopting, or amending and adopting, the proposed regulation, or any part thereof, will be held at the board's offices, 4010 West Broad Street, Richmond, Virginia, beginning at 10:00 a.m. on Friday, January 12, 1990, at which time any interested citizen present shall be heard. If the board is satisfied that the proposed regulation, or any part thereof, is advisable, in the form in which published or as amended as a result of the public hearing, the board may adopt such proposal at that time, acting upon the proposal in whole or in part.

Summary:

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

VR 325-02. GAME.

VR 325-02-1. In General.

Proposed Effective Date: March 15, 1990

§ 2. Hunting with crossbows, arrows to which any drug, chemical or toxic substance has been added or

explosive-head arrows prohibited.

It shall be unlawful to use a crossbow, arrows to which any drug, chemical or toxic substance has been added or arrows with explosive heads at any time for the purpose of hunting wild birds or wild animals. A *crossbow is defined as any bow that can be mechanically held in the drawn or cocked position.*

VR 325-03. FISH.

VR 325-03-2. Trout Fishing.

§ 14-2. *Special provisions applicable to certain portion of Jackson River.*

It shall be unlawful to creel or possess trout on that portion of the Jackson River from Gathright Dam downstream to the Westvaco Dam at Covington. Such closure shall end when special regulations pertaining to trout fishing on such portion of the Jackson River are enacted by the Board of Game and Inland Fisheries.

LIBRARY BOARD

Title of Regulation: VR 440-01-149.2. Certification of Librarians.

Statutory Authority: § 42.1-15.1 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until February 4, 1990.

(See Calendar of Events section for additional information)

Summary:

These regulations set forth the required qualifications for the certification of professional librarians in certain public libraries. The certificates shall be issued by the State Library Board to any individual who has met the educational requirements for certification. They require that such librarians qualify for certification by one of three methods: (i) endorsement, (ii) education or (iii) provisional certification. The fee for permanent certification shall be \$50. Librarians employed by the State Law Library or law libraries of counties or cities, libraries of colleges and universities, libraries of institutions, and school libraries are exempt.

Preamble:

Proposed Regulations

The State Library Board has been given the responsibility and authority by the General Assembly, pursuant to § 42.1-15.1 of the Code of Virginia, for the establishment of qualifications of professional librarians in certain public libraries. The State Library Board hereby enacts the following regulations to implement and interpret its authority over public librarian qualifications. These regulations supersede all previous regulations on this subject enacted by this board.

VR 440-01-149.2. Certification of Librarians.

PART I. GENERAL INFORMATION.

§ 1.1. Issuing authority, individuals covered and exempt from regulations.

Professional Librarian's Certificates shall be issued by the State Library Board to any individual who has met the educational requirements for certification as set forth in these regulations. Librarians employed by the State Law Library or law libraries of counties or cities, libraries of colleges and universities, libraries of institutions, and school libraries are exempt.

PART II. CERTIFICATION PROCESS.

§ 2.1. Certification by endorsement.

A certificate shall be issued to an applicant who holds a current, valid certificate granted by another jurisdiction, providing that the standards for granting this certificate are comparable to those required for certification in the Commonwealth of Virginia.

§ 2.2. Certification by education.

A certificate shall be issued to an applicant who has earned a master's degree from a school of library or information science that had a program accredited by the American Library Association at the time the degree was awarded. A certificate shall be issued to an applicant who has earned a doctoral degree in library or information science from an accredited institution.

§ 2.3. Provisional certification.

A provisional letter of certification shall be issued to an applicant who has satisfactorily completed the required credits for a master's degree from a school of library and information science accredited by the American Library Association. The provisional letter of certification grants the applicant a one-year period to submit proof of the receipt of an MLS degree.

§ 2.4. Certification fee.

All applications shall be made on forms to be secured

from the Human Resource Officer of the Virginia State Library and Archives. The fee required by this article shall be submitted with the application.

The fee for permanent certification, established by the State Library Board, shall be \$50.

A provisional letter of certification shall be \$50. If proof of the MLS degree is submitted within a one-year period, no additional fees will be assessed for permanent certification.

The fee for a duplicate certificate shall be \$10.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-2. Lump Sum Ineligibility Period in the Aid to Dependent Children (ADC) Program.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A - Written comment may be submitted until January 20, 1990
(See Calendar of Events section for additional information)

Summary:

As set forth in § 63.1-25 of the Code of Virginia, the State Board of Social Services has been delegated the authority to promulgate rules and regulations necessary for the operation of public assistance programs in Virginia. Federal regulations require that a period of ineligibility be established when a family receives a lump sum payment. The period of ineligibility may be shortened when it can be determined that the lump sum is unavailable to the family for reasons beyond the family's control. The proposed regulations will ensure that clients have the right to appeal the local agency decision. It also will encourage equitable treatment of cases throughout the Commonwealth.

VR 615-01-2. Lump Sum Ineligibility Period in the Aid to Dependent Children (ADC) Program.

PART I. DEFINITIONS.

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

"Aid to Dependent Children (ADC) Program" means the program administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Assistance unit" means those persons who have been

determined categorically and financially eligible to receive an assistance payment.

"Budget month" means the calendar month in which the income is received.

"Lump sum income" means any nonrecurring payment such as an accumulation of benefits for a prior period, earned income tax credit refund, an insurance settlement including Social Security and Workers' Compensation benefits; payments in the nature of a windfall, e.g., inheritances or lottery winnings, personal injury awards; the portion of a casualty property loss payment which is not used for repair or replacement of the damaged or lost resources; life insurance settlements when the policy is owned by someone other than a member of the assistance unit; loans for current living expenses; child support payments in excess of public assistance payments; or income from any other unearned nonrecurring source.

"Payment month" means the second month following the budget month. It is the month in which budget month income is reflected.

"Standard of need" means the dollar amount, based on the family size, which has been established to cover predetermined monthly maintenance needs.

PART II. LUMP SUM PAYMENTS.

§ 2.1. When a lump sum payment is received by any member of an assistance unit, the lump sum shall be added to other countable income and compared against 100% of the state's standard of need. If the total income is less than 100% of need, the income is to be reflected in the payment month by reducing the payment or suspending the grant for one month, whichever is appropriate.

If the total income equals or exceeds 100% of need, the total budget month income is divided by the 100% standard of need for the appropriate assistance unit size to determine the number of months the assistance unit will be ineligible for assistance. Any income remaining after this calculation is counted as available income in the first month following the period of ineligibility, should the family reapply for assistance in this month.

§ 2.1. Evaluation of lump sum payments.

When a lump sum payment is received by any member of an assistance unit, the lump sum must be added to other countable income and compared against 100% of the Commonwealth's standard of need.

A. If the total income is less than 100% of need, the income will be reflected in the payment month by reducing the payment or suspending the grant for one month, whichever is appropriate.

B. If the total income equals or exceeds 100% of need, the total budget month income is divided by the 100% standard of need for the appropriate assistance unit size to determine the number of months the assistance unit will be ineligible for assistance. Any income remaining after this calculation is counted as available income in the first month following the period of ineligibility, should the family reapply for assistance in that month.

§ 2.2. Once established, the period of ineligibility may not be shortened unless (i) the standard of need increases and the amount the family would have received also changes; (ii) the lump sum or portion thereof becomes unavailable to the family for a reason beyond the control of the family; or (iii) the family incurs medical expenses during the period of ineligibility and uses lump sum monies to cover the cost of medical services received. For the purpose of item (ii) above, "reasons beyond control of the family" include a family member absconding with the lump sum monies, the theft of such monies, repayment of debts, or any other condition which, in the best judgement of the local agency, is deemed to meet this criteria for shortening the period of ineligibility. Debts are defined as medical bills incurred from the period prior to receipt of the lump sum, expenses related to a natural disaster or fire, costs related to avoiding an eviction and/or a utility cut-off, weather related repairs or replacement, and funeral expenses. Final authority for such decisions will rest with the superintendent/director of each locality. Medical services which will be allowed under item (iii) will be those services which the department has identified as follows: inpatient hospital services; outpatient hospital services; laboratory and x-ray services; nursing home care; home health services; clinic services; pharmaceutical services; optometry services; medical supplies and equipment; family planning services; acupuncture; transportation necessary for medical care; screening services; physical, occupational, and speech therapy; and physician's services, including services provided by any person licensed to practice medicine, osteopathy, chiropractic, clinical psychology, pediatrics, or midwifery.

§ 2.2. Shortening the period of ineligibility.

Once established, the period of ineligibility may not be shortened unless the following conditions apply:

1. The standard of need increases and the amount the family would have received also changes;

2. The lump sum or portion thereof becomes unavailable to the family for a reason beyond the control of the family.

a. Reasons beyond the control of the family include:

(1) A family member absconding with the lump sum monies;

(2) The theft of such monies; and

Proposed Regulations

(3) Repayment of debts.

(a) Debts are defined as medical bills incurred from the period prior to receipt of the lump sum, expenses related to a natural disaster or fire, costs related to avoiding an eviction or utility cutoff, or both, weather related repairs or replacement, and funeral expenses.

(4) Any other condition which, in the best judgment of the local agency, is deemed to meet this criterion for shortening the period of ineligibility.

3. The family incurs medical expenses during the period of ineligibility and uses lump sum moneys to cover the cost of medical services received.

a. Medical services which will be allowed are inpatient hospital services; outpatient hospital services; laboratory and x-ray services; nursing home care; home health services; clinic services; pharmaceutical services; optometry services; medical supplies and equipment; family planning services; acupuncture; transportation for medical care; screening services; physical, occupational, and speech therapy; and physician's services, including services provided by any person licensed to practice medicine, osteopathy, clinical psychology, chiropractic, podiatry, or midwifery.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-50-01. Regulations for the Development of Solid Waste Management Plans.

Statutory Authority: Chapter 14 (§ 10.1-1400 et seq. and specifically § 10.1-1411) of Title 10.1 of the Code of Virginia.

Public Hearing Dates:

January 8, 1990 - 7 p.m.

January 9, 1990 - 7 p.m.

January 11, 1990 - 7 p.m.

(See Calendar of Events section for additional information)

Summary:

The proposed regulations are constructed in six parts. In Part I, the definitions to be used in the succeeding parts are listed. Part II states the purpose and authority for the regulations. The relationship to other state and local rules is established. Where there is no mutually exclusive conflict, both the proposed waste management regulations and the other rules must be obeyed. The board's policy defining an hierarchy of solid waste management techniques is included. The proposed effective date of the regulations is March 1, 1990. After July 1, 1992, no permits for solid waste

management facilities shall be issued to a jurisdiction not covered by a solid waste management plan approved under these regulations.

Part III describes objectives and required performance of a solid waste management plan to be developed by each city, county and town, either individually or in cooperative regional plans. Plan submittal is required by July 1, 1991. On July 1, 1997, and every five years thereafter, a report updating the plan must be submitted for approval. Mandatory goals for recycling rates and the method of calculation of the rate are established. Among the other items of the plan described are an integrated strategy, funding, public information, site identification, public participation in the plan and waste stream analysis.

Plan contents, including incorporated data, identification of solid waste management needs, and evaluation of alternatives, are described in Part IV. Part V describes considerations in, criteria for and procedures in the designation or amendment of regional boundaries for the plan. Part VI describes procedures for considering petitions for rulemaking or issuance of variances from the regulations.

VR 672-50-01. Regulations for the Development of Solid Waste Management Plans.

PART I. 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:

"Abandoned material" means any material that is: (i) disposed of; (ii) burned or incinerated; or (iii) accumulated, stored or treated (but not recycled) before or instead of being abandoned by being disposed of, burned or incinerated.

"Agricultural waste" means all solid waste produced from farming operations, or related commercial preparation of farm products for marketing.

"Board" means the Virginia Waste Management Board.

"Closure" means the act of securing a solid waste management facility pursuant to the requirements of these regulations.

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

"Construction/demolition/debris landfill" means a land

burial facility engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, inert waste, or combinations of the above solid wastes.

"Construction waste" means solid waste which is produced or generated during construction of structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if they are part of the construction material or are empty containers for such materials. Paints, coatings, solvents, asbestos, compressed gases, liquids or semi-liquids and garbage are not construction wastes.

"Contamination" means the degradation in quality of naturally occurring water, air, or soil resulting either directly or indirectly from human activity.

"Debris waste" means stumps, wood, brush, and leaves from land clearing operations.

"Demolition waste" means solid waste produced by destruction of structures and their foundations and includes the same materials as construction wastes.

"Department" means the Virginia Department of Waste Management.

"Discarded material" means a material which is: (i) abandoned material as defined in this part; (ii) recycled material as defined in this part; or (iii) considered inherently waste-like.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters.

"Executive director" means the Executive Director of the Department of Waste Management.

"Facility" means solid waste management facility unless the context clearly indicates otherwise.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the Paint Filter Liquids Test, Method 9095, U.S. Environmental Protection Agency, Publication SW-846.

"Garbage" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.

"Groundwater" means any water, except capillary moisture or unsaturated zone moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this Commonwealth, whatever may be the subsurface geologic structure in which such water stands, flows, or otherwise occurs.

"Hazardous waste" means a "hazardous waste" as defined by the Virginia Hazardous Waste Management Regulation.

"Household waste" means any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

"Illegal disposal" means disposal which is contrary to applicable law or regulations.

"Incineration" means the controlled combustion of solid waste for disposal.

"Incinerator" means a facility or device designed for the treatment for volume reduction of solid waste by combustion.

"Industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

"Industrial waste landfill" means a solid waste landfill used primarily for the disposal of a specific industrial waste or a waste which is a byproduct of a production process.

"Inert waste" means solid waste which is physically, chemically and biologically stable from further degradation and considered to be nonreactive. Inert wastes include rubble, concrete, broken bricks, bricks, and blocks.

"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include infectious waste from health care facilities and research facilities that must be managed as an infectious waste.

"Integrated waste management plan" means a governmental plan that considers all elements of waste management during generation, collection, transportation, treatment, storage, and disposal and selects the appropriate methods of providing necessary control and services for effective and efficient management of all wastes. An "integrated waste management plan" must provide for recycling within the jurisdiction and the proper funding and management of waste management programs.

Proposed Regulations

"Jurisdiction" means a local governing body; city, county or town; or any independent entity, such as a federal or state agency, which join with local governing bodies to develop a waste management plan.

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill.

"Large diameter tree stumps" means tree stumps too large to be chipped or processed using available technology.

"Litter" means all waste material disposable packages or containers, but not including the wastes of the primary processes of mining, logging, farming, or manufacturing.

"Nonhousehold waste" or "nonhousehold solid waste" means any solid waste that is not defined as "household waste."

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped or spilled so as to create a nuisance or so as to pose within the determination of the executive director a substantial present or potential hazard to human health or the environment, including the pollution of air, land, surface water or groundwater. For further detail see the Virginia Solid Waste Management Regulations.

"Permit" means the written permission of the executive director to own, operate or construct a solid waste management facility.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

"Principal recyclable materials" means newspaper, ferrous scrap metal, nonferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, high-grade office paper, tin cans, cloth, automobile bodies, plastic and clean wood, brush, leaves, grass and other arboreal materials. "Principal recyclable materials" do not include large diameter tree stumps.

"Recycled material" means a material that is derived from recycling.

"Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product, which may or may not be similar to the original product.

"Refuse" means all solid waste products having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

"Regional boundary" means the boundary defining an

area of land that will be a unit for the purpose of developing a waste management plan, and is established in accordance with Part V of these regulations.

"Resource recovery system" means a solid waste management system which provides for collection, separation, recycling and recovery of energy or solid wastes, including disposal of nonrecoverable waste residues.

"Reused" means having once been a waste and being (i) employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or (ii) employed in a particular function or application as an effective substitute for a commercial product or natural resources.

"Rubbish" means combustible or slowly putrescible discarded materials which include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term "garbage."

"Sanitary landfill" means an engineered land burial facility for the disposal of solid waste which is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment.

"Scrap metal" means bits and pieces of metal parts such as bars, rods, wire, or metal pieces that may be combined together with bolts or soldering which are discarded material and can be recycled.

"Site" means all land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of solid waste. This term includes adjacent land within the property boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste.

(Note: This term includes all sites whether they are planned and managed facilities or open dumps.)

"Sludge" means any solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility.

"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit

form the State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended. As used in these regulations, solid waste does not include hazardous wastes as defined in the Virginia Hazardous Waste Management Regulations.

"Solid waste disposal facility" means a solid waste management facility at which solid waste will remain after closure.

"Solid waste management facility ("SWMF")" means a site used for planned treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

"Source reduction" means any action that reduces or eliminates the generation of waste at the source, usually within a process. Source reduction measures include process modifications, feedstock substitutions, improvements in feedstock purity, improvements in housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process.

"Source separation" means separation of recyclable materials by the generator.

"Special wastes" mean solid wastes that are difficult to handle, require special precautions because of hazardous properties or the nature of the waste creates waste management problems in normal operations.

"State solid waste management plan ("State Plan" or "Plan")" means the document prepared in accordance with § 4008(a)(1) of the Federal Resource Conservation and Recovery Act of 1976 and which sets forth solid waste management goals and objectives, and describes planning and regulatory concepts to be employed by the Commonwealth.

"Supplemental recyclable material" means construction rubble, ash, tires, batteries, concrete, and similar inert materials, sludge or large diameter tree stumps, or as may be authorized by the executive director.

"Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.

"Transfer station" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.

"Used or reused material" means a material which is either: (i) employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or (ii) employed in a particular function or application as an effective substitute

for a commercial product or natural resources.

"Waste exchange" means any system to identify sources of wastes with potential for reuse, recycling or reclamation and to facilitate its acquisition by persons who reuse, recycle or reclaim it, with a provision for maintaining confidentiality of trade secrets.

"Waste to energy facility" means a facility that uses waste to generate usable energy, or treats the waste in order to facilitate its use in the production of usable energy.

PART II. LEGISLATIVE AUTHORITY AND GENERAL INFORMATION.

§ 2.1. Authority for regulations.

These regulations are promulgated pursuant to Chapter 14 (§ 10.1-1400 et seq. and specifically § 10.1-1411) of Title 10.1 of the Code of Virginia (hereinafter Code), which authorizes the Virginia Waste Management Board to promulgate and enforce such regulations as may be necessary to carry out its duties and powers and the intent of the Virginia Waste Management Act (hereinafter Act) and the federal acts.

§ 2.2. Policy.

It is the policy of the Virginia Waste Management Board to require each region designated pursuant to Part V of these regulations, as well as each city, county and town not part of such a region, to develop comprehensive and integrated solid waste management plans that include but are not limited to:

1. Source reduction;
2. Reuse;
3. Recycling;
4. Resource recovery (waste-to-energy);
5. Incineration;
6. Landfilling; and
7. Plan implementation.

§ 2.3. Purpose of regulations.

The purpose of these regulations is to:

1. Establish minimum solid waste management standards and planning requirements for protection of the public health, public safety, the environment, and natural resources throughout the Commonwealth; promote local and regional planning that provides for environmentally sound solid waste management with

Proposed Regulations

the most effective and efficient use of available resources;

2. Establish procedures and rules for designation of regional boundaries for solid waste management plans;

3. Establish state, local government and regional responsibility for meeting the minimum recycling rates of 10% by 1991, 15% by 1993 and 25% by 1995;

4. Establish procedure for withholding issue of permits to local governments for solid waste management facilities after July 1, 1992, pending approval of a solid waste management plan; and

5. Provide for reasonable variance and exemptions.

§ 2.4. Administration of regulations.

The Executive Director of the Virginia Department of Waste Management is authorized and directed to administer and enforce these regulations in accordance with the Virginia Waste Management Act, §§ 10.1-1400 through 10.1-1457 of the Code.

§ 2.5. Applicability of regulations.

A. These regulations apply to all cities, counties, towns, or designated regions, regional planning districts or public service authorities. Any county and town within that county may mutually agree to unite for the purpose of solid waste management planning, and upon joint written notification to the executive director, shall be deemed to be a single unit for development of a local solid waste management plan.

B. The plan may specify that all solid waste must be recycled at the rate established by the plan regardless of the point of origin of the solid waste. Solid wastes from both public and private sources shall be subject to such requirement.

§ 2.6. Enforcement and appeal.

A. All administrative enforcement and appeals taken from actions of the executive director relative to the provisions of these regulations shall be governed by the Virginia Administrative Process Act.

B. Orders.

1. The board is authorized to issue orders to require any person to comply with the provisions of these regulations. Any such order shall be issued only after a hearing with at least 30 days notice to the affected person of the time, place, and purpose thereof. Such an order shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of such person.

2. The provisions of § 2.6 B 1, shall not affect the

authority of the board to issue separate orders and regulations to meet any emergency to protect public health, natural resources, and the environment from the release or imminent threat of release of waste.

C. After July 1, 1992, no permit for a solid waste management facility shall be issued until the local or regional applicant has a plan approved in accordance with these regulations.

§ 2.7. Severability.

A. If any provision or part of these regulations is held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of these regulations and their application.

B. These regulations supersede and replace all previous regulations of the Department of Waste Management to the extent that those prior regulations conflict with the regulations presented herein. Prior regulations remain in effect where no conflict exists.

C. These regulations shall remain in effect until the Virginia Waste Management Board, in subsequent formal action, shall amend, rescind or otherwise alter them. Such an action will be specific in its detail and cite these regulations by their title. Where there appears to be a conflict with these regulations and regulations adopted at a future date, and such future regulations do not specifically clarify these regulations, these regulations shall be superior.

D. These regulations are completely separate from all federal regulations.

§ 2.8. Relationship to other bodies of regulation.

A. These regulations are general solid waste management regulations that specify minimum standards and planning requirements for solid waste management by regional or local governmental entities of the Commonwealth. If there is a mutually exclusive conflict between the regulations herein and other adopted nonhazardous solid waste management regulations of this agency, the provisions of these regulations are superior. In any detail where there exists no mutually exclusive conflict between these regulations and other regulations of the board, compliance with all regulations is required.

B. Multi-jurisdictional plans developed in fulfillment of the requirements of these regulations must be adopted under authority of the Virginia Area Development Act [Va. Code Ann. §§ 15.1-1400 through 15.1-1499 (1981 and Cum. Supp. 1988)], the Virginia Water and Sewer Authorities Act [Va. Code Ann. §§ 15.1-1239 through 15.1-1270 (1981 and Cum. Supp. 1988)], the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions [Va. Code Ann. § 15.1-21 (1981)], or other authority as applicable.

C. If there is a mutually exclusive conflict between these regulations and the Virginia Hazardous Waste Management Regulations, the provisions of the hazardous waste regulations are superior. In any detail where no such mutually exclusive conflict exists, compliance with all regulations is required.

§ 2.9. Effective date of regulations.

The proposed effective date of these regulations is March 1, 1990.

PART III.

OBJECTIVES AND PERFORMANCE REQUIRED.

§ 3.1. Schedule for plan development.

Every city, county and town in the Commonwealth shall develop a solid waste management plan or amend an existing solid waste management plan and submit them for approval in accordance with these regulations. Existing plans may be amended by addendum of items such as consideration of the waste management hierarchy, the recycling program implementation activities and other requirements of these regulations that are not a part of the existing plan. A local jurisdiction participating in an authorized regional solid waste management plan is not required to develop a separate plan.

A. A complete solid waste management plan in compliance with these regulations shall be provided to the Department of Waste Management no later than July 1, 1991.

B. The Department of Waste Management shall approve or disapprove each plan submitted in accordance with § 3.1 A no later than July 1, 1992. If the Department of Waste Management disapproves the plan, it shall cite the reasons for the disapproval and state what is required for approval.

C. Each submitter whose solid waste management plan is disapproved under § 3.1 B shall submit a corrected solid waste management plan to the Department of Waste Management no later than 90 days following notification of disapproval.

D. Plans approved without alteration shall become effective upon notification. If the Department of Waste Management cannot approve the corrected solid waste management plan because it finds the plans not to be in accordance with these regulations, it will issue a notice of disapproval to the submitter and shall cite the reason for the disapproval and state what is required for approval. The department will give priority consideration for review of corrected plans where the local or regional body has a pending permit application for a solid waste management facility.

E. On July 1, 1997, and each succeeding five-year period

thereafter, each city, county, town or region shall submit a report to the executive director updating the plan.

§ 3.2. Mandatory plan objectives.

A. The solid waste management plan shall include:

1. An integrated waste management strategy;
2. Objectives for solid waste management within the jurisdiction;
3. Definition of incremental stages of progress toward the objectives and schedule for their accomplishment;
4. Descriptions of the funding and resources necessary, including consideration of fees dedicated to future facility development;
5. Strategy for the provision of necessary funds and resources;
6. Strategy for public education and information on recycling; and
7. Consideration of public and private sector partnerships and private sector participation in execution of the plan. Existing private sector recycling operations should be incorporated in the plan and the expansion of such operations should be encouraged.

B. The plan shall describe how each of the following minimum goals were or shall be achieved:

1. By December 31, 1991, a recycling rate of 10% of the total of household wastes and principal recyclable materials that are wastes from nonhousehold sources generated annually in each city, county, town or region.
2. By December 31, 1993, a recycling rate of 15% of the total of household wastes and principal recyclable materials that are wastes from nonhousehold sources generated annually in each city, county, town, or region.
3. By December 31, 1995, a recycling rate of 25% of the total of household wastes and principal recyclable materials that are wastes from nonhousehold sources generated annually in each city, county, town, or region.

C. Calculation methodology shall be included in the plan.

1. The plan shall describe method of calculating the rate of recycling. Three alternative methods of calculation are permitted. These are:

- a. Where accurate documentation of the total weight of solid waste received for landfilling, incineration and recycling within the jurisdiction of the plan

Proposed Regulations

exists, the percentage recycled can be calculated directly as:

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%$$

Where, "Total" is the weight of the total of household wastes and principal recyclable material as wastes from nonhousehold sources received from within the jurisdiction or exported during the previous 12 months for landfilling, incineration and recycling, and "Recycled" equals weight of principal recyclable material received during the previous 12 months for recycling.

b. Where accurate documentation of the total volume of solid waste received for landfilling, incineration and recycling within the jurisdiction of the plan exists, the percentage recycled can be calculated directly as:

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%$$

Where, "Total" is the volume of the total of household wastes and principal recyclable materials as wastes from nonhousehold sources received from within the jurisdiction or exported during the previous 12 months for landfilling, incineration and recycling, and "Recycled" equals volume of principal recyclable material received during the previous 12 months for recycling.

c. Where accurate documentation of the total waste received for landfilling, incineration and recycling is not available, the most accurate survey or estimate of the per capita weight of the total of household wastes and principal recyclable material as wastes from nonhousehold sources generated within the jurisdiction during the previous 12 months shall be used to calculate the "Total" and the measured weight of principal recyclable material recycled shall be use as "Recycled" in the formula:

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%.$$

2. The amount of supplemental recyclable material that is productively used or sold as product substitute or other beneficial products may be added into the "Recycled" amount in each calculation method.

(Note: "Principal Recyclable Materials" means newspaper, ferrous scrap metal, nonferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, high-grade office paper, tin cans, cloth, automobile bodies, plastic and clean wood, brush, leaves, grass and other arboreal materials. "Principal Recyclable Materials" do not include large diameter tree stumps. "Supplemental recyclable material" means construction rubble, ash, tires, batteries, concrete, and similar inert materials, sludge or large diameter tree stumps, or as may be authorized by the executive director.)

D. A report on progress in attaining the recycling goals established in § 3.2 B shall be submitted to the Department of Waste Management within 120 days of the date prescribed in that section. The department will prepare a statewide summary progress report based on the data submitted.

E. By July 1, 1993, all known solid waste disposal sites, closed and active, within the area of the solid waste management plan shall be documented and recorded at a centralized archive authorized to receive and record information. Thereafter, all new sites shall be recorded at the same central data source.

F. By July 1, 1993, a method shall be developed to monitor the amount of solid waste of each type produced within the area of the solid waste management plan and to record the annual production by solid waste types at a centralized archive. Waste types include but are not limited to broad classes such as residential, commercial and industrial, and the major categories of principle and supplemental recyclable materials.

§ 3.3. Public participation.

A. Prior to submission of a solid waste management plan to the Department of Waste Management, the submitter shall publish a notice and hold a public hearing on the plan in accordance with the procedures of the local government or regional planning agency. A record of the hearing and all written comments shall be submitted with the plan.

B. Plan developers should provide for extensive participation by the public through the use of citizen advisory committees and public meetings during the development of the plan.

PART IV.

WASTE MANAGEMENT PLAN CONTENTS.

§ 4.1. General.

Every solid waste management plan shall:

1. Include consideration of the hierarchy defined in § 2.2 giving preference to alternatives in the following order of priority: source reduction, reuse, recycling, resource recovery, incineration, landfilling;
2. Clearly and explicitly demonstrate the manner in which the goals of the mandatory objectives defined in § 3.2 of these regulations shall be accomplished;
3. Include, when developed locally, a copy of the local governing body's resolution adopting the plan; and
4. Include, when developed regionally, a copy of the resolution approving the plan adopted in accordance with the Virginia Area Development Act (Va. Code

Ann. §§ 15.1-1400 through 15.1-1499 (1981 and Cum. Supp. 1988)), the Virginia Water and Sewer Authorities Act (Va. Code Ann. §§ 15.1-1239 through 15.1-1270 (1981 and Cum. Supp. 1988)), the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions (Va. Code Ann. § 15.1-21 (1981)), or other authority as applicable.

§ 4.2. Incorporated data.

The local government or regional solid waste management plan shall include data and analyses of the following type for each jurisdiction:

1. Demographic information and projections over 20 years of population growth and development patterns;
2. Urban concentrations, geographic conditions, markets, transportation conditions, and related factors;
3. Estimates of solid waste generation from households, commercial institutions, industries and other types of sources, including the amounts reused, recycled, recovered as a resource, incinerated and landfilled. Estimates should identify special waste to include, at least, the following: stumps, land-clearing debris and construction wastes, motor vehicle tires, waste oil, batteries, sludges, mining wastes, septage, agricultural wastes and spill residues;
4. A listing of existing and planned solid waste collection, storage, treatment, transportation, disposal and other management facilities, their projected capacities and systems for their use;
5. All milestones in the implementation of the solid waste management plan over the 20-year projection and the parties responsible for each milestones;
6. A listing of all known open dumps within the regional boundary, the current owner of the site, the nature and size of the site;
7. A listing of local laws and regulations which affect solid waste management, including recycling, reuse and resource recovery;
8. A description of programs for solid waste reduction, recycling, reuse, storage, treatment, disposal and litter control;
9. A description of outreach programs for waste exchange, public education and public participation; and
10. The procedures for and results of evaluating solid waste collection, including transfer stations,

§ 4.3. Assessment of solid waste management needs.

The solid waste management plan shall:

1. Assess all current and predictable needs for solid waste management for a period of 20 years and describe the action to be taken to meet those needs, and
2. Determine the extent of illegal disposal (including littering) and describe corrective actions.

§ 4.4. Assessment of alternatives.

The solid waste management plan shall assess alternate solutions for solid waste management needs and rank each based on criteria that consider, at least, the following factors:

1. Fulfillment of the mandatory objectives of § 3.2 of these regulations;
2. Consideration of the hierarchy of § 2.2 of these regulations;
3. Environmental compatibility;
4. Economic growth and development; and
5. Solid waste collection.

PART V. AUTHORIZING OF REGIONAL BOUNDARIES.

§ 5.1. Designation of regions.

The executive director has been authorized by the Governor to designate regional boundaries defining areas and jurisdictions to be considered for joint development of solid waste management plans. Only those regions meeting the standards established in this part will be considered. Any group of jurisdictions may petition the executive director for designation as a region, and, if the proposed region meets the standards established for designation, the executive director shall approve the request.

§ 5.2. Development of designated regions.

A. At least 14 days prior to designating a regional boundary for solid waste management planning, the executive director shall place a notice of the proposed regional boundary and an opportunity to comment in the Virginia Register of Regulations and in a newspaper of general circulation within the proposed region.

B. If, as a result of the notices required by § 5.2, the executive director feels a significant need exists to hold a public hearing on the issues, a hearing shall be held in the proposed region prior to the designation. At least 14 days prior to the hearing, a notice of the proposed hearing shall appear in the same publications as the notice under § 5.2 A.

§ 5.3. Considerations in designating a regional boundary.

Proposed Regulations

A. The following shall be considered in designating regional boundaries:

1. Geographic areas or jurisdictions which have a history of cooperating to solve problems in environmental or other related matters;
2. Existing regional management systems, authorities or similar institutions;
3. The size, configuration and location of the regional areas should have sufficient solid waste contribution and market availability to support the solid waste management system;
4. Solid waste types within areas and mutuality of solid waste management interests;
5. Geologic, hydrologic, soil and groundwater conditions; availability of land and soils; and natural barriers and ecosystems; and
6. Existing planning areas established for purposes other than solid waste management including the existence of informational data bases containing data related to that needed for solid waste management planning.

B. Areas included within a planning boundary may be local or regional.

1. A local area may include a city, town or county and any towns within the county that through mutual agreement join with the county for the purpose of developing a plan.
2. A regional area may include:
 - (a) The jurisdictions with existing regional planning district boundaries;
 - (b) Any combination of local governments formally joined to form a region or service authority, or
 - (c) Existing waste management or public service authorities.

§ 5.4. Criteria for designating a regional planning agency

A. The executive director may authorize an official committee or public body as authorized to develop, adopt and promulgate the solid waste management plan.

B. Prospective regional planning agencies shall have:

1. Demonstrated ability to plan, manage or operate solid waste management services; or
2. Completed planning that resulted in successful implementation of solid waste management facilities or services.

C. An entity designated as responsible for developing a regional solid waste management plan shall:

1. Be an organization that represents the executive boards of jurisdictions within the region;
2. Have planning authority for the regional area;
3. Be capable of readily starting the plan development work tasks;
4. Have an established methodology for resolving conflicts, making planning decisions and providing public participation in the development of the plan;
5. Have experience in environmental planning and have a staff experienced in the work tasks involved in such planning;
6. Have established a methodology and authority sufficient to implement the plan once it is complete and approved; and
7. Have access to informational resources within the region.

§ 5.5. Amendment of regional boundary.

The executive director may amend a regional boundary based on an application from a local government jurisdiction.

PART VI.

RULEMAKING PETITIONS AND PROCEDURES.

§ 6.1. General.

Any person affected by these regulations may petition the executive director to grant a variance or an exemption from any requirement of these regulations subject to the provisions of this part. Any petition submitted to the executive director is also subject to the provisions of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code).

§ 6.2. Administrative procedures.

A. General petitioning requirements.

The petition shall be submitted to the executive director by certified mail and shall include:

1. The petitioner's name and address;
2. A statement of petitioner's interest in the proposed action;
3. A description of desired action and a citation of the regulation from which a variance is requested;

4. A description of need and justification for the proposed action, including impacts from existing operations and market conditions;

5. The duration of the variance, if applicable;

6. The potential impact of the variance on public health or the environment;

7. Other information believed by the applicant to be pertinent; and

8. The following statement signed by the petitioner or authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

B. Petition processing.

1. After receiving a petition that includes the information required in § 6.2 A, the executive director will determine whether the information received is sufficient to render the decision. If the information is deemed insufficient, the executive director will specify additional information needed and request that it be furnished.

2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for additional information. If the executive director agrees that no reasonable basis exists for the request for additional information, he will act in accordance with § 6.2 B 3. If the executive director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action in accordance with the Virginia Administrative Process Act.

3. After the petition is deemed complete:

a. The executive director will make a tentative decision to grant or deny the petition;

b. Where the petition is tentatively denied, the executive director will offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the executive director to proceed with the evaluation;

c. Unless the petition is withdrawn, the executive director will issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper

advertisement and radio broadcast in the locality where the applicant is located. The executive director will accept comment on the tentative decision for 30 days after publication of public notice;

d. Upon a written request of any interested person, the executive director may, at his discretion, hold an informal fact-finding meeting described in Article 3 (§ 9-6.14:11 et seq.) of the Virginia Administrative Process Act. A person requesting a hearing shall state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The executive director may in any case decide on his own motion to hold such a meeting;

e. After evaluating all public comments the executive director will:

(1) Within 15 days after the expiration of the comment period, notify the applicant of the final decision; and

(2) Publish it in a newspaper having circulation in the locality.

C. Petition resolution.

1. In the case of a denial, the petitioner has a right to request of the executive director a formal hearing to challenge the rejection.

2. If the executive director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the Executive Director that the petitioner has failed to comply with any variance requirements.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

The Department of Corrections is officially withdrawing VR 230-30-005, "Guide for Minimum Standards in Design and Construction of Jail Facilities." The final regulation appeared in 6:2 VA.R. 199-214 October 23, 1989.

The department intends to continue with promulgation of this regulation at such time as issues raised by the Department of Planning and Budget have been resolved.

Issues raised by the Department of Planning and Budget have been reviewed, and all relevant changes have been incorporated into the regulation and adopted by the Board of Corrections. The final regulation is being published with these additional changes in this issue of The Virginia Register of Regulations.

Title of Regulation: VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.

Statutory Authority: § 53.1-68 of the Code of Virginia.

Effective Date: January 4, 1990

Summary:

This regulation is a part of a two-part set of regulations which are being promulgated to facilitate the evaluation of requests by localities for construction reimbursement. While the other regulation, "Regulations for State Reimbursement of Local Correctional Facility Construction Costs," sets forth criteria to assess need and establish priorities, this regulation is designed to serve as a guideline for evaluating submitted construction plans and specifications.

The regulation addresses construction and design requirements for building materials, equipment and systems in secure detention facilities, and construction and design requirements for less secure facilities, nonsecure facilities and lockups. Included in the document are criteria for physical design and construction of facilities as well as parameters for the materials to be used. Provisions are applicable for new construction, renovation, or expansion of facilities.

This regulation does not involve operational requirements which are addressed in separate

regulations entitled, "Minimum Standards for Jails and Lockups."

Changes since the "final" publication in the October 23, 1989, issue of The Virginia Register of Regulations involve issues which were identified by the Department of Planning and Budget. These changes include (i) adding language in the preface which addresses concerns relative to the needs assessment; (ii) adding definitions of "acceptable" and "needs assessment"; (iii) clarifying definitions of "jail" and "secure area"; and (iv) adding language to clarify that references to various capacities, occupancy levels, and space requirements are in terms of design rather than operational.

Preface:

These standards for design and construction will be the minimum permitted in Virginia for new facilities and shall be incorporated into expansion and renovation programs. They are promulgated to complement existing criteria published in the Virginia Uniform Statewide Building Code, State Health Department Regulations, and § 504 of the Rehabilitation Act of 1973.

[*Localities considering the "direct supervision" concept for jail management shall submit a written request to the Board of Corrections for a variance to these standards at the beginning of the project. The request shall include, at a minimum, a detailed description of the management concept for the facility anticipated staffing levels, and the specific variances being requested.]*

A needs assessment [as specified in the "Regulations for State Reimbursement of Local Correctional Facility Construction Costs,"] is necessary to determine the size of facility and the daily demands which affect design. The needs assessment shall be completed prior to the beginning of design and is required in order to qualify for reimbursement of state funds for construction.

In order to meet the daily demands of the client population and staff, the minimum designs for jails shall provide for a number of essential custodial functions. Operationally, space is needed for security posts, control station, visiting, intake, holding, processing, examining, clothing storage, laundry, food service, dining, waiting and reception areas for the public, and exercise (both indoor and outdoor). For administration and support, space is needed for

general housing, isolation, classification, counseling, support of volunteer programs, canteen, library, medical, supply receiving, mechanical equipment, storage areas, staff lounge, restrooms and administrative offices. The State Board of Corrections' "Minimum Standards for Local Jails and Lockups" shall be utilized as a guideline to determine functional relationships of required areas in jail facilities. With proper planning, all of these can be adequately provided in a cost/space effective manner.

The design concept must allow for flexibility in housing on the basis of inmate classification by age, sex, security needs and, whenever possible, pre/post sentence separation. When determining building design, consideration shall be given to traffic patterns for ease of movement throughout the jail, physical and operational security, elimination of blind spots, and efficiency and economy of staffing. Jail facilities should be designed to allow for the possibility of future expansion.

VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.

PART I. INTRODUCTION.

§ 1.1. Definitions.

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

["Acceptable" means those standards or practices which are compatible with standards required by a registered professional architect or engineer or other duly licensed or recognized authority.]

"Administrative area" means an area of the jail dedicated to maintaining the operation of the jail facility.

"Approved type" means an item as approved by the Department of Corrections.

"A.S.T.M." means the American Society for Testing and Materials.

"Capacity (Design Capacity)" means the maximum number of persons the facility has been constructed to house without the addition of extra beds.

"CCTV" means closed circuit television.

"Central control point" means a secured space which maintains the safety and security of the jail through electronic equipment for surveillance, communication, fire and smoke detection, emergency functions and regulation of ingress and egress to cells, dayrooms, corridors and other space within the jail.

"Classification cell" means a cell for short term holding for purposes of classification prior to being assigned to general population or other housing.

"Dayroom " means a secure area adjacent to an inmate living area, with controlled access from the inmate living area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.

"Dormitory" means an area designed for accommodating two to [20 24] inmates in secure housing or for two to 25 inmates in less-secure housing. In addition to water closets, showers, lavatories, tables, and bunks, the dormitory may include other design items not always found in single cells; such as benches and storage areas.

"Enlargement/Expansion" means to expand the current detention facility by the construction of additional area(s) as may be determined by need or as required by law or regulation.

"Facility" means a jail or lockup, including buildings and site.

"IMC" means Intermediate Metal Conduit.

"Inmate housing area" means a single person cell, multi-occupancy cell, dormitory or group of such cells (pod) or dormitories which provide accommodations for sleeping, approved personal effects, and personal hygiene.

"Interior security walls" means walls within but not a part of [the a] security perimeter which are utilized to restrict movement within the secure area, including but not limited to [cells,] cell pods, dormitories, corridors, inmate activity areas, admissions areas, [counseling/treatment program] areas.

"Jail" means a facility that is operated by or for a locality or public authority for the detention of persons who are charged with or convicted of law violations. [The term "jail" shall not include lockups.]

["Jailor" means that individual who is responsible for the day to day security operation of the jail within the secure perimeter, such as, Supervisor of Security.]

"Less secure housing" means a facility or [area] housing [area] for work/study release, weekenders, and other inmates of minor security consideration and which may be located outside the jail security perimeter walls.

"Life safety operations" means the function of certain electrical, mechanical and other building equipment provided for the purpose of ensuring the safety of building occupants in the case of a fire or similar emergency situation.

"Lockup" means a facility operated by or for a local government for detention of persons for a short period of

Final Regulations

time as determined by the Board of Corrections.

"Maximum custody inmates" means persons who cannot be allowed to mingle physically with other inmates without close supervision, normally because of assaultive and aggressive behavior or high escape risk.

"Medium custody inmates" means those persons who require staff supervision and secure accommodations against escape, but who will be allowed to participate in group activities.

"Minimum custody inmates" means those inmates classified as not dangerous or likely to escape, but are of sufficient concern to [be housed in a less restrictive environment require a minimum level of security] .

["Minimum Standards for Local Jails and Lockups" means operational standards available from the Department of Corrections.]

"Natural lighting" means lighting available either by cell or room windows to exterior or from a source within 20 feet of room or cell and visible from the room or cell.

["Needs assessment" means a survey, as specified in the "Regulations for State Reimbursement of Local Correctional Facility Construction Costs," to determine size of facility and daily demands which affect design.]

"New construction" means to build a detention facility to replace an outdated detention facility or to establish a detention facility as may be determined by need or required by law or regulation.

["Nonsecure construction" means a building classification with a nonrestrained occupancy classification.]

"Pod" is a group of cells clustered together.

"Renovation" means the alteration or other modification of existing detention facility or piece of equipment for the purpose of modernizing or changing the use of capability of such detention facility or equipment as may be determined by need or required by law or regulation. Renovation does not include work on or replacement of a detention facility or equipment which may be generally associated with normal wear and tear and included in routine maintenance. Renovation renders the facility, item or area superior to the original.

"Repair" means the correction of deficiencies in a detention facility or equipment which have either been damaged or worn by use, but which can be economically returned to service without replacement.

"Replacement" means the construction of a detention facility in place of a like detention facility or the purchasing of equipment to replace equipment which has been so damaged or outlived its useful life that it cannot

be economically renovated or repaired.

"Room" means a cell without plumbing fixtures. Rooms are utilized when inmates have control of the individual room doors and are free to circulate from rooms to dayrooms at will.

"Routine maintenance" means the normal and usual type of repair or replacement necessary as the result of periodic maintenance inspections or normal wear and tear of a detention facility or equipment.

"Sally port" means a safety vestibule as a defined space that promotes security by the use of two or more interlocking doors.

"Sally port, vehicular" means a drive-in or drive-through made secure preferably by remotely controlled electrically operated interlocking doors for entrance and exit. It is normally located in close proximity to the facility intake area.

"Secure area" means all spaces [within the secure area] of the facility [which are regularly occupied by inmates], including but not limited to cells, cell pods, dormitories, corridors, inmate activity areas, admissions areas, and counseling/treatment areas.

"Secure housing" means housing for all inmates-maximum, medium and minimum, which is not classified as less secure.

"Security perimeter walls" means the outer limits of the jail or lockup proper where walls, floor and roof/ceiling are used to prevent egress by inmates or ingress by unauthorized persons or contraband.

"Special purpose cells" means cells within the security perimeter which may include isolation, segregation, medical or other special purposes cells.

"Supervision" means the act or process of performing watchful and responsible care over prisoners in one's charge. Supervision, which ensures the safety of corrections officers, requires more than mere observation or surveillance. It is an active process.

"Temporary holding cell/area" means a cell used to hold one or more persons temporarily while awaiting processing, booking, court appearance, or discharge, or a cell used to temporarily hold one or more persons until they can be moved to general housing areas after booking.

PART II. ADMINISTRATION.

§ 2.1. Legal basis.

The Virginia State Board of Corrections is charged by § 53.1-68 of the Code of Virginia with the responsibility for establishing minimum standards for the construction,

equipment, administration and operation of local correctional facilities and lockups. Compliance with these standards is necessary in order to qualify for reimbursement of any new construction, renovation or expansion project. This guide was approved by the State Board of Corrections at a regular meeting held on [~~September 20, 1989~~ November 15, 1989] . It supersedes the "Guide for Minimum Standards for the Design and Construction of Jail Facilities" adopted by the Board of Corrections in 1978.

Other sections relating to the above are §§ 53.1-1, 53.1-5, 53.1-10, 53.1-69, 53.1-70, 53.1-80, 53.1-81, 53.1-82, 53.1-83, and 53.1-125 of the Code of Virginia.

PART III.

CONSTRUCTION AND DESIGN REQUIREMENTS FOR BUILDING MATERIALS, EQUIPMENT AND SYSTEMS FOR SECURE DETENTION FACILITIES.

§ 3.1. Building systems.

The requirements set forth herein establish the standards for building materials, equipment, and systems to be designed and constructed in detention facilities (jails) within the Commonwealth of Virginia. The building components denoted herein are intended to relate the facilities security and custody level and expected use conditions, with the materials, equipment and systems expected performance, particularly related to strength, safety and durability characteristics. Of equal importance is matching the performance levels of the various components which make up a security barrier or system. They must be comparable and compatible.

The prime security perimeter of a detention facility is composed of a complete security envelope consisting of walls, roofs, floors, ceilings, doors, door locks and other hardware, windows, and glazing. These and other components will be covered within the context of this section.

It is mandatory that all construction conform to the current Virginia Uniform Statewide Building Code, other applicable laws, rules and regulations and all operational standards set forth in the Virginia Board of Corrections' "Minimum Standards for Local Jails and Lockups." All work shall be done in accordance with acceptable design and construction practices and material shall be installed in accordance with manufacturers' recommendations.

A. Structural systems - walls, floors, roofs, ceilings.

1. Wall systems - general. Walls encompassing areas occupied by inmates without constant supervision shall provide a secure barrier to prevent unauthorized access. Their construction shall provide a deterrent against the penetration through the building's exterior or interior walls.

a. Exterior walls - masonry and concrete.

(1) General. Exterior walls shall be of masonry, concrete, or other approved fireproof building material equal in strength and durability.

(2) Masonry. Walls or partitions that serve as perimeter security (may be exterior or interior wall), shall be a minimum of eight inches nominal thickness with horizontal metal wall reinforcing, spaced not more than 16 inches on center starting eight inches above floor and with minimum vertical wall reinforcing of No. 4 reinforcing steel bars not more than eight inches on center the entire height of the wall. Hollow masonry block cell cores shall be filled solid with concrete or [~~course~~ coarse] grout in accordance with A.S.T.M. C476.

(a) All masonry mortar shall be type "M" 2,500 p.s.i. mortar.

(b) When security walls do not rest on a concrete footing located below the level of the finished concrete floor slabs, the first row of masonry block wall construction shall be dowelled into the concrete floor slabs using minimum of No. 4 reinforcing bars spaced a maximum of eight inches on center. Dowels shall extend a minimum of three inches into concrete slab and shall be 12 inches in length. Cores of block shall be filled solidly with mortar, grout or concrete. Where top course of masonry block is not dowelled into upper roof/ceiling, secure partition with steel angles located on both sides.

(3) Concrete. May be cast in place or precast reinforced high strength concrete, minimum of 4,000 p.s.i. compressive strength (28-day strength). Minimum thickness shall be four inches.

b. Interior walls - masonry, concrete, steel.

(1) General.

(a) Interior walls shall be of masonry, concrete, steel plate or other approved fireproof building material equal in strength and durability.

(b) Interior security walls separating secure building areas shall be extended up to the underside of roof or floor construction.

(c) All masonry mortar shall be type "M" 2,500 p.s.i. mortar.

(d) All interior exposed walls and partitions in security areas shall have a smooth hard finish, properly sealed and painted with a washable type paint or other approved durable finish with a flame spread rating of 25 or less (A.S.T.M. E-84).

(2) Masonry.

(a) Perimeter security wall shall comply with

Final Regulations

requirements of subdivision A 1 a (2) of this section when wall serves as a perimeter security wall.

(b) Interior security walls, inmate housing areas, and control stations shall all comply with the requirements of subdivision A 1 a (2) of this section except: minimum wall thickness shall be six inches. Reinforcing bars shall be spaced not more than 16 inches on center; however, reinforcing bars may be eliminated altogether if block cores are filled solid with 5,000 p.s.i. concrete or grout.

(c) Masonry which is dowelled or tied into floor and roof/ceiling surfaces shall comply with the requirements of subdivision A 2 b of this section except that dowels shall be spaced not more than 16 inches on center.

(3) Concrete shall comply with requirements of subdivision A 1 a (3) of this section.

(4) Steel plate walls shall not be less than 3/16 inch thick and shall be securely attached to structural slabs in floor and roof or ceiling by means of approved bolted, riveted or welded connections. All bolted connections shall have upset or welded thread to prevent removal of fasteners.

(5) Bar grille partitions shall be 2 1/4" x 3/8" steel bar frame with vertical 7/8 inch round double ribbed bars spaced approximately four inches on center and 2 1/4" x 3/8" horizontal steel bars spaced approximately 16 inches on center. Steel to be of open hearth or tool resistant grade according to the use intended.

(6) Woven rod partitions shall be fabricated from 3/8 inch diameter mild steel rods spaced not more than two inches on center in two directions, interwoven and crimp-locked. Rods shall be anchored securely into a heavy gauge (10 gauge minimum) tubular steel frame.

2. Floor systems.

a. All floors shall be concrete including supported slabs and slabs on grade. Slab on grade floors shall be four inches minimum thickness.

b. All floor surfaces shall be of a durable, maintenance free, nonabsorptive material. Floor surfaces, if concrete, shall be finished with an approved sealer and hardener.

3. Roof/ceiling systems.

a. General. The roof/ceiling assemblies above areas which are occupied regularly by medium/maximum security inmates shall provide a secure barrier to prevent access to the area above the ceilings and shall provide a roof construction, which will provide

a deterrent against the penetration of the construction from both the interior and exterior of the building. The space above the ceiling should be subdivided to prevent movement from one area of the facility to another within this space.

b. The roof/ceiling slab construction, which includes cell areas, dayroom spaces, control stations and locations which medium/maximum security inmates occupy regularly, shall be any approved type of standard weight concrete construction having a minimum concrete strength of 3,000 p.s.i. and with not less than 6" x 6" x 10 gauge embedded temperature reinforcing. System assembly, for security purposes is to be approved by the Department of Corrections.

c. Ceilings consisting of a suspended grid system with removable type panels (acoustical or metal pan type) shall not be permitted in cells and other areas where inmates will have access to the area unsupervised. Such ceilings may be used in dayrooms and other areas where floor to ceiling height is not less than 15 feet and not accessible to inmates. Ceiling hold down clips shall be used in all inmate accessible areas.

d. Ceilings in spaces other than security areas (as indicated in subdivision b above) which are accessible to inmates shall be permitted to be of the suspended type (suspended below the bottom of structural members); however, ceiling surface shall be no less than three coat portland cement plaster installed on approved type metal lath or approved comparable material.

e. All access to the space above the ceiling surface shall be protected by metal access panels equipped with keyed locks.

f. A ceiling shall be provided when roof construction other than concrete is less than 15 feet above finished floor level of an inmate occupied area or within 15 feet of mezzanine style balcony railing on dayroom/atrium style ceiling. Exposed roof structure may be approved by Department of Corrections when located more than 15 feet above floor level and not accessible to inmates.

g. The following are alternate acceptable roof construction assemblies that may be used in detention facility areas with the exception of cells, control stations, armories, sally ports, medical housing, and dormitories with less than a 15 foot ceiling height above finished floor:

(1) Three inch concrete on 16 gauge steel form or decking on concrete or steel supporting members; and

(2) Three inch concrete with 6" x 6" x 10 gauge

wire fabric on a 22-gauge steel form or decking on concrete or steel supporting members.

B. Doors and frames - security and nonsecurity type.

1. Security doors generally used where maximum and medium security is required (i.e., sally ports, control stations, housing units, stairwells, cell doors, security perimeter, and emergency exit doors) may be one of the following:

a. Detention - type security hollow metal doors.

(1) Minimum two inches thick with minimum 14 gauge steel face sheets and internal metal stiffeners. Security hollow metal doors shall meet the static load and rack (twist) test requirements of NAAMM (National Association of Architectural Metal Manufacturers) Standard HMMA 863-88(5).

(2) Associated door frames shall be 12 gauge steel minimum.

b. Bar grille doors.

(1) Shall be 2 1/2" x 3/8" steel bar style and rail perimeter with vertical 7/8 inch round double ribbed bars spaced approximately four inches on center and 2 1/2" x 3/8" horizontal steel bars approximately 16 inches on center, steel to be of open hearth or tool resistant grade according to the use intended.

(2) Associated door frames shall be a minimum of 3/16 inch bent steel plate or equivalent rolled steel shapes. All joints shall be mitered and fully welded. Minimum of three wall anchors on each frame jamb.

c. Steel plate doors.

(1) Shall be a minimum of 3/16 inch thick plate steel.

(2) Shall have minimum of 3/16 inch bent steel plate or equivalent rolled steel shape door frame. Minimum of three wall anchors on each frame jamb.

d. Woven rod door.

(1) Woven wire doors as specified for woven wire partitions. Refer to § 3.1 A 1 b (6).

(2) Frame shall be either 10 gauge roll steel minimum or 3/16 inches bent steel plate or comparable roll shapes. Minimum of three wall anchors on each frame jamb.

2. Nonsecurity doors shall be durable considering the constant use or abuse they will receive in a detention

environment. They shall be steel commercial type 1-3/4 inches thick minimum hollow metal doors with 16 gauge face sheets, frames shall be 14 gauge hollow metal or equal. [Solid core, fire treated wood doors are an acceptable alternative as a nonsecurity door.]

3. Miscellaneous design features.

a. Glazed view panels shall be provided in all doors where required for security purposes.

b. Where doors, frames and hardware are required by the building code to be fire rated construction, such construction shall not reduce or compromise the security requirements.

c. Sally ports and interlocking requirements.

(1) To allow for control of public and inmate access and circulation, sally ports and interlocking doors consisting of at least one pair of security doors shall be utilized for passage control. Sally ports shall be provided at all exterior openings from security areas and at cell/dayroom pods designed for maximum and medium security inmates.

(2) Sally port locking and unlocking shall be remotely controlled from a secure control station.

(3) Exterior security doors used solely to meet emergency evacuation requirements are not required to be sally ported; however, fencing the area to be utilized for evacuation is recommended.

d. Door frames shall be anchored securely to construction in which they are installed in order to withstand the extreme use/abuse to which doors will be subjected. Masonry supporting door frames shall be reinforced and cores filled with grout a minimum of 16 inches each side of opening.

e. Security frames shall be completely filled with fine grout in accordance with A.S.T.M. C 476 or type "M" mortar.

C. Locks and locking systems.

1. General. Locks and locking systems should provide a level of performance consistent with the level of security, control, safety, and durability required and the type of surveillance utilized. The security and durability of the locks and locking systems should be comparable and compatible with that of the doors, frames or gates in which they are installed. All electrically remote operated doors discussed herein shall be equipped with a manual override feature.

2. Locking devices. Where a high degree of security and positive door control is required, sliding door locking devices should be provided and be capable of being operated from a secure control station.

Final Regulations

a. Design options.

(1) **Maximum security.** Fully controllable locking devices, i.e., capable of locking, unlocking, opening and closing from a control station.

(2) **Medium security.** Manually operated devices in which a door is initially unlocked or released by remote action but which further opening or closing of the door is done manually.

b. Vehicle sally port gates should be capable of being operated and locked from a remote location, with provisions for manual operation and locking when power is off.

3. **Key operated locks.** Lock operation and size of lock bolt shall be compatible with the frequency of operation, the construction of the door and frame, the level of security required, and the type of surveillance utilized.

a. Mechanical locks are usually mounted on swinging doors and provide for deadlocking or slam-locking with automatic deadlocking.

b. Electro mechanical locks are generally jamb mounted and provide for slam-locking and remote, electric unlocking.

c. Design options.

(1) **Maximum security** (i.e., high security areas like holding cells, segregation cells, or areas with heavy bar grill or steel plate doors) lever tumbler locks should be used. Bolt is retracted by a paracentric key.

(2) **Medium security.** Lever tumbler or mogul cylinder locks should be used. Such locks are often used as electric locks with manual override.

(3) **Minimum security.** Normal commercial grade cylinder locks or security type mortise locks may be used depending on security level or frequency of operation anticipated.

4. Controls shall be provided to operate the locks and locking devices in the required modes.

a. The switches, relays and other devices should make up a control system compatible with the locks and locking devices and should be capable of providing the switching necessary to satisfy all desired operational modes.

b. A control console/panel shall be designed to display all switches to the operator. Normally installed in a secure area (i.e., officers control station) the console should be equipped with a switch for each door, a group switch for each wing

of the building (or cell block) and switches for the corridor and sally port gates which control access to those wings. There should also be a power cut-off switch to deactivate the console whenever the officer must leave his station.

c. Status indication shall indicate the closed and locked position of the gate/doors on the control console or panel.

(1) Sliding gates/doors shall have indicated the dead locked position of the gate/door and the locked position of the front or rear locking bar.

(2) Swing gates/doors with jamb mounted electric release locks shall have indicated the closed position of the gate/door, the projected position of the lock bolt and the depressed position of the dead lock roller bolt. Note: green light indicates a closed and locked condition, while a red light indicates all other conditions.

d. In the event of a power failure the locking system shall be fail-secure. A fail secure system is held mechanically locked and only releases with electric or mechanical assistance.

e. Emergency release provisions shall be made for unlocking or gang-release of cell doors and in case of fire, power failure or other emergencies.

(1) Emergency power from a backup generator (internal combustion engine) is normally required for electric release of door systems in case of power failure.

(2) Other forms of emergency release involve some approved form of mechanical linkage, chain or cable system or an assembly of all, connected to door release mechanism for each cell, which when activated will release all doors at the same time. The release mechanism shall be in a securely locked steel cabinet.

D. Windows.

1. **General.** Performance requirements and criteria for the selection and intended use of windows should include the following considerations: security, natural lighting, ventilation, and weather protection.

2. **Security type windows.** Windows which are to be installed in the building perimeter security (exterior and interior walls and skylight assemblies) shall be security type windows of one or more of the following types:

a. Fixed windows shall have a steel frame to retain the glazing. Security is obtained through the use of security glazing and limitations on the size of openings. Frames fabricated from steel angles or

manufactured heavy gauge security hollow metal frames are acceptable.

b. Awning windows with horizontal, tool resisting steel bars spaced maximum of six inches on centers concealed within the head of the frame, each rail of the ventilators and in the frame sill. These bars extend from jamb to jamb and connect into vertical tool resisting bars concealed in the side frames thereby forming a security grille.

c. Protected air vent windows which provide a large fixed glazed area and incorporate a hinged air vent which is protected by an integral slotted interior grille or security screen. The air vent is operated in a continuous opening and closing cycle by rotating a cone or operating handle in either direction. Tool resistant steel bars shall form a security grid.

d. Nonsecurity windows may be required in an exterior security wall to provide a noninstitutional appearance. When such windows are used, however, the window opening shall be protected on the interior side of the opening by a steel bar grillage, security frame and glazing assembly comparable to the security assemblies described herein.

3. Security features.

a. Where bar grille is used at windows and other openings the bar grille shall be similar in design and construction to bar grille partitions (See subdivision A 1 b (5) of § 3.1). Where bar grille is to be accessible to inmates for extended periods of time without constant supervision, bar grille work shall be fabricated from tool resistant steel.

b. All openings (such as windows, louvers, duct and pipe penetrations, and skylights) eight inches by eight inches or larger penetrating the security perimeter walls, floors or roof must be protected by tool resistant bar grille similar in construction to bar grille partitions [arranged to produce clear openings not to exceed 5" x 8" as required by subdivision A 1 b (5) of § 3.1]. Duct, pipe and louver penetrations of interior security partitions shall be protected as required for openings in security perimeter walls.

c. Removable glazing stops should be applied wherever possible on the side opposite the inmate occupied area to avoid tampering. Where stops must be placed in an inmate area, they should be secured with an ample number of strong, properly installed, tamper-proof fasteners of design approved by the Department of Corrections. Junctions of horizontal and vertical glazing stops must be welded to prevent removal of portions of stop members.

d. All exterior windows in security areas which are capable of being opened must have additional

protection of stainless steel wire contraband/insect screen.

E. Glazing.

1. General. A wide variety of glazing materials and assemblies are available for various applications within detention facilities. The performance characteristics to consider are resistance to ballistic attack, resistance to physical attack, durability, fire-safety, and installation. Glazing and glazing assemblies should provide a level of performance against ballistic and physical attacks which are consistent with the level of security and safety required and the type of surveillance utilized. The level of glazing resistances selected should be consistent with the resistances of the surrounding walls, louvers and other building components.

2. Security design considerations.

a. Key considerations where glazing is used, such as windows and doors in housing units, dayrooms, corridors, control rooms and stations, sally ports, visitation areas, are:

(1) Whether or not penetration of that glazing will compromise security and allow passage of contraband;

(2) Degree of staff supervision or surveillance; and

(3) Anticipated amount of vandalism.

b. As penetration of glazing in control rooms and stations will jeopardize security, glazing in these areas shall be able to withstand physical attacks for an extended time period - minimum of 30 minutes. Where control room windows are adjacent to uncontrolled public space(s) or the exterior of the building, glazing shall be rated for ballistic attack resistance as required by the nature and location of the facility.

c. In areas such as medium and maximum security housing units, glazing shall have adequate physical attack resistance to prevent penetration for a time sufficient to allow staff to respond to riots, or other emergencies. The assembly should withstand physical attack for a minimum of 30 minutes. If a glazed opening is less than five inches in one direction or the opening is protected by steel bars or rods (bar grillage), vandalism and subsequent maintenance should be important considerations for the selection of glazing and glazing assembly but physical attack glass is not required.

d. Where voice communications through the glazing is required, a system utilizing vandal resistant individual speakers, and microphones intercom or telephone shall be specified.

Final Regulations

e. Where glazing is used in areas subject to abrasion and scratching, glass, glass-clad or mar-resistant material should be used.

f. Fire resistance, and flame spread of glazing materials, and the size of openings and area of glazing materials and assemblies must be in accordance with applicable codes and standards.

g. Ballistic and physical attack testing rating of glass shall be based on testing equal to the standards of H.P. White Laboratory, Inc., testing HPW-TP-0100.00[5] or equally comparable and certifiable testing laboratory as approved by the Department of Corrections.

h. Plate glass, float glass and other conventional glass other than wire glass shall not be used in any openings located in the secure perimeter or in any walls, partitions, door or other openings within the area enclosed by the secure perimeter.

§ 3.2. Secure housing units.

A. Secure housing [units] shall be arranged and constructed to ensure the physical separation by normal sight and sound of male, female and juvenile inmates.

B. Secure housing shall be constructed in accordance with § 3.1 of this standard.

C. Secure housing shall be constructed to consist of housing for maximum, medium and minimum custody inmates. Recommended breakdown of these custody levels is [40% 30%] maximum, 30% medium, and [30% 40%] minimum.

1. Maximum security areas shall be designed as groupings of single cells with common dayrooms to afford protection for persons requiring close supervision. The number of persons per unit will depend upon the degree of surveillance and security provided, but shall not [be designed to] exceed 12.

2. Medium security areas shall be constructed as single cells plus dayroom and shall [not be designed to] accommodate [~~no~~] more than [20 24] persons per unit of cells plus dayroom. [For jails having an occupancy in excess of 300 inmates, the number of occupants may be increased.]

3. Minimum security areas may be of cells, rooms or dormitories. Cells must meet requirements in subsection E below. Dormitories must contain a minimum of 85 square feet excluding toilet/shower area for each inmate for which the area is designed. Minimum security areas shall [not be designed to] accommodate [~~no~~] more than [20 24] persons per unit. For facilities [having designed for] an occupancy in excess of [300 250] inmates, the number of occupants [~~per unit~~] for which the unit is

designed] may be increased [but shall not exceed 50 persons per unit] .

D. Interior security walls shall be provided around and between all cell pods, dormitories, special purposes cells and along interior security corridors, booking/classification areas and control rooms or secure control stations.

E. All individual inmate cells or individual rooms shall be constructed to contain no less than 70 square feet of living space and have a ceiling height no less than eight feet. Individual cells or rooms shall be configured to incorporate a dayroom or activity space which contains no less than 35 square feet of space for each cell served, not including sally ports, showers, toilets or circulation for door swings.

F. All cells shall be provided with artificial light, toilet and lavatory fixtures, hot and cold water, a security type mirror, a stationary bed/bunk, storage space for personal items and proper ventilation.

G. Each dayroom shall be equipped with a shower, toilet, lavatory with hot and cold water, drinking fountain, or lavatory equipped with bubbler, tables, and benches. Tables and benches shall be stationary in maximum security areas. Stairs shall have open risers to avoid creating blind spots.

[H. Natural light is required in inmate housing areas. Natural light is recommended in renovation projects which provide new inmate housing.]

[H. I.] Interior multi-purpose space(s) shall be provided which is sufficient in size to allow for educational classes, religious services, [group] counseling services, [~~eatery~~] library, and program services. Total multi-purpose space square footage shall be constructed to provide a minimum of 15 square feet per inmate for which the facility is designed.

[I. J.] Equipment used in housing areas shall be appropriate to the needs of security levels.

[J. K.] If secure and less secure housing (see Part IV) are provided in the same building, design shall provide traffic patterns to assure the separation of secure and less secure inmate population.

§ 3.3. Reception and release.

A. Intake, holding and processing.

1. The reception and release area shall be located within the security perimeter of the facility but outside the inmate housing area. Reception and release shall be separated from the housing area by an interior security wall.

2. The reception and release area shall be constructed to provide for the following: control station, temporary

holding area(s), classification holding area(s), booking area, records area, property storage and clothing storage.

a. Reception and booking shall provide space for strip search and shower, clothing storage and issue, photograph and fingerprint, medical exam, classification, orientation, interview and telephone calls.

b. There shall be a minimum of one temporary holding area(s)/room(s) for each 25 inmates for which the facility is designed.

c. Holding area(s) shall be [~~constructed~~ designed] to contain a minimum of 15 square feet per inmate, however, no single area shall contain less than 35 square feet. [Holding areas/cell fronts shall be sufficiently open, using security glazing or bar grillage or both to permit observation of all areas.] Each area shall contain a stationary bench/bunk and a stainless steel plumbing fixture(s) with sanitary bubbler, hot and cold water and privacy screening. Lighting shall be from a maximum security fixture and of sufficient intensity to permit sight supervision. Heat and ventilation shall be provided in accordance with Building Code requirements.

d. The reception and release area shall be controlled from a secure control station where monitoring equipment will be located to control functions of this area.

e. If a separate classification or cell block is provided, cells shall be not less than 35 square feet in area and be provided with a bunk, lighting, ventilation, and plumbing fixtures, as required by § 3.2 F. Dayrooms are not required for classification cells.

f. Classification should include an interview room with space for an officer and counselor.

g. Storage of inmate personal property shall be provided. Recommended is four to six inches of hanging space per inmate [for which the facility is designed] plus bins or lockers for items which cannot be hung.

B. Related areas.

Areas located adjacent to reception and release area, but outside the security perimeter, are the vehicular sally port, magistrate's office (if provided), waiting room, and personnel sally port. The vehicular sally port and personnel sally port shall be provided with weapons lockers equipped with individually locked compartments.

§ 3.4. Auxiliary areas.

Security is the primary function of the jail. Specific attention must be afforded to design which facilitates physical plant, operational, and staff security.

A. Administration.

1. The jail shall provide sufficient space consistent with the size of the facility for administrative, program and clerical personnel. Adequate space for equipment, records and supplies shall be provided to meet established and projected needs [as determined by the needs assessment] . These spaces shall be located outside the inmate occupied areas.

2. Space shall be provided within the security perimeter for the jailor's office, counselor's office and other offices as the program for the jail requires.

3. The floor area provided for administration space shall [~~empty generally with not exceed~~] the "Guidelines for the Utilization of Office Space" published by the Department of General Services.

B. Public areas.

Public areas of the facility shall be located outside the security perimeter. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter the security perimeter. A waiting area with appropriate information signs and provisions for handicapped visitors shall be provided for the public and shall be so situated that it does not interfere with general office routine. The public waiting area shall include sufficient seating, drinking fountains, restrooms and lavatories. Restrooms should be provided with floor drain and hose bib. Provision of public telephones is suggested.

C. Facility visiting area(s).

Visitor accommodations shall be designed to provide flexibility in the degree of physical security and supervision commensurate with security requirements of variously classified inmates. Means shall be provided for audible communication between visitors and inmates, designed to prevent passage of contraband. Provisions shall be made for handicapped visitors. Noncontact visiting space shall be constructed to provide not less than one space for each 12 inmates for which the facility is designed. [Facilities over 100 beds shall provide a one to 25 ratio for inmates exceeding the 100 level.] Additionally, a secure visiting area shall be provided for contact visits from law-enforcement officers, attorneys, clergy, and probation and parole officers. Lockers in the lobby or other convenient area for storage of handbags or other articles which cannot be taken into the visiting area should be considered.

D. Exterior areas.

All exterior areas shall be adequately lighted and, where

Final Regulations

required by location or surrounding area, enclosed by a security fence.

E. Gun storage area.

Institutional secure gun storage shall be provided outside the security area of the facility.

F. Special purpose cells.

There shall be one special purpose cell (isolation, medical or segregation) for each 10 secure inmates for which the facility is designed. Special purpose cells are not required to have dayroom or activity space but shall not contain less than 70 square feet of floor space. These cells shall be equipped with a bunk, stainless steel toilet and lavatory fixtures, light, heat and ventilation. Separate showers shall be provided for use by special purpose cell inmates at the rate required by the Building Code. One special purpose cell shall be provided equipped with a water closet, lavatory, shower, and handicapped provisions within the security area of the jail. (Note: These cells will not be counted in the general population bed space of the jail; however, total bed space equals general population plus special purpose cells.)

G. Storage.

Beyond storage mentioned specifically for particular areas, the following shall be provided based upon facility capacity:

1. Secure storage for inmate personal property;
2. Storage for inmate clothing, linens, towels, etc.;
3. Storage for recreation and related equipment (shall be located near indoor and outdoor recreation areas);
4. Secure storage for medical supplies;
5. Storage for extra inmate mattresses and bunks;
6. Secure storage for janitorial supplies in janitor's closets located conveniently to areas serviced; and
7. Secure storage space for storage of security equipment, restraining devices, chemical agents, etc. This space shall be located in an area not accessible to inmates.

§ 3.5. Food service and laundry.

A. Food service.

1. Kitchen. If a kitchen is provided, it shall be equipped to meet the standards of the Department of Health and the following:

- a. The kitchen shall be [~~designed sized~~] in accordance with the [~~designed~~] housing area

capacity and include consideration for projected future expansion. The floor area provided for the kitchen shall be based on the inmate population [~~to~~ be served for which the facility is designed] . The area shall be determined on the basis of 10 square feet per inmate for the first 100 inmates and three square feet per inmate for all inmates in excess of 100. No kitchen shall be less than 150 square feet. If a food pass is provided between the kitchen and housing area, it shall be protected with bar grille and a steel door with a secure detention lock. The kitchen shall be located with consideration to ease of serving the inmate population and where supplies can readily be received without breaching security.

b. A janitor's closet and mop sink for exclusive use in the kitchen shall be located within the kitchen area.

c. Selection of kitchen equipment shall be coordinated with the Department of Corrections. Equipment such as counters, work tables or shelving with wooden surfaces shall not be allowed in the kitchen.

d. The floor in the food service areas shall be of a material which is impermeable, will withstand food spillage and is easily cleaned. The use of quarry tile set in an acid and alkali resistant grout and setting bed is recommended.

e. Storage space of adequate size and type to accommodate perishable, frozen, and bulk dry food storage, shall be provided.

2. Dining.

a. If a dining area is provided, a minimum of 15 square feet shall be provided for each inmate the area is designed to serve.

b. If a dining area is provided, floors shall be of material that is impermeable, will withstand food spillage, cigarette burns, and is easily cleaned.

B. Laundry.

1. Laundry. If a laundry is provided, each jail design shall include sufficient space for a commercial type laundry. Finishes shall be as used in the kitchen area. Electrical, plumbing and ventilation shall be as described under § 3.6.

2. Supply storage. There shall be sufficient storage area for the laundry. If this area contains cleaning articles, it shall be kept locked and inaccessible to inmates, except under supervision of security staff or other institutional employees.

§ 3.6. Mechanical, plumbing and electrical.

A. Mechanical.

1. A mechanical room shall be provided which can be entered from outside [the inmate security area an area normally occupied by inmates] .
2. An emergency power source sufficient to sustain, as a minimum, life safety operations shall be provided.
3. All facilities shall be designed to provide adequate ventilation and exhaust as required by the Building Code and the "Minimum Standards for Local Jails and Lockups." Where natural ventilation is not feasible, the facility must be climate controlled.

B. Plumbing.

When hot water is available, it will be controlled by a temperature limiting device to preclude temperatures in excess of 110° fahrenheit.

1. Shower stalls in secure housing shall be of secure construction, and include soap dish and drain. Shower heads shall be positioned to confine water flow to shower stall.
2. The showers in secure housing shall be controlled by a time limiting push button. Water temperature shall be controlled by a temperature limiting device inaccessible to inmates.
3. Shower and toilet areas shall be provided with a wall coating which will withstand humidity, will not chip or scale, and the walls and floors shall be waterproofed.
4. All exposed plumbing shall be kept flush with and be securely fastened to the walls and ceilings. No exposed plumbing pipes shall be accessible to the inmates in or from the dayroom or cell area.
5. Sufficient floor (water) drains shall be provided throughout the jail so as to enable water to be squeegeed off of floors in areas where water spillage may be a concern (i.e., showers, group toilet areas, dayrooms).
6. Plumbing fixtures in maximum security housing areas shall be stainless steel toilet/lavatory units.
7. Push button activators shall be used on the inmates side of the plumbing chase to operate the flush valve and lavatory faucets.
8. All housing areas shall be provided with janitorial closets, water drains, fire protection and adequate storage.
9. Separate restroom facilities shall be located throughout the building(s) for the use of security and administrative staff. Also, facilities shall be provided

in or convenient to secure control rooms or stations.

10. If walk in type plumbing chases are provided, they shall be provided with a light(s) to facilitate maintenance.
11. Plastic piping shall not be used in the secure areas of the jail above the ground floor slab.
12. Hot and cold water shall be available in all lavatories and showers.
- [13. It is recommended that sanitary drainage lines have a minimum inside dimension of six inches.]

C. Electrical.

1. Wiring shall be run concealed to the greatest extent possible. Where wiring must be exposed and accessible it shall be housed in threaded rigid metal conduit and securely fastened to the walls or ceiling.
2. Wiring shall be in accordance with the Building Code.
- [3. Light fixtures shall be of good quality and of a design to meet security level consistent with the intended use of the space.
4. The intensity of lighting shall be in accordance with "Minimum Standards for Local Jails and Lockups."]

§ 3.7. Miscellaneous.

A. Elevators.

1. Facilities with more than two floors shall be provided with an elevator(s) designed to comply with the Building Code. (Strongly recommend an elevator be provided if facility is more than one story in height.)
2. Elevators shall be of sufficient size to transport food carts. At least one elevator per facility shall be of sufficient size to transport stretchers.
3. Elevators shall be key operated or controlled from a control room via speaker/intercom communication.

B. Corridors.

Corridors used for the movement of inmates, stretchers, food carts, etc., shall be constructed to provide a minimum of five feet in width and eight feet in height. Corridors not used for the above functions shall be not less than that required by the Building Code.

C. Handicapped.

Facilities shall be constructed to provide cells, rooms or dormitories to accommodate handicapped inmates at a

Final Regulations

minimum rate of one handicapped room for each 50 or fewer inmates design capacity. Reasonable accessibility to program, activity, and recreation shall be provided to handicapped inmates. Provisions for handicapped employees and visitors shall be in accordance with the Building Code.

D. Recreation.

Indoor and outdoor recreation space shall be provided.

1. Indoor recreation may be composed of classroom(s), vocational area(s), and multipurpose room(s), or any of the above. A minimum [total] space of 600 square feet shall be provided.

2. Outdoor recreation space shall be constructed to provide no less than 1,500 square feet. Minimum overhead clearance shall be 15 feet.

3. It is recommended that recreation space be increased in size in relation to size of facility and more than one recreation area be provided for larger jail facilities.

E. Fencing.

Security fencing or security wall shall be provided for recreation yards and all other areas which are required by these standards to be fenced. Fence shall be single fence, minimum of 12 feet in height, nine gauge, two inches mesh, zinc coated, steel wire interwoven fence fabric, with minimum of three strands of barbed wire attached to support arms at top of the line posts angled to the inmate side. Fence components including but not limited to the top and bottom rails, line posts, terminal posts, tension bars, attachments, concrete footings for the fence, walk gates and truck gates, shall be in accordance with manufacturers' recommendations.

F. Intercom and CCTV (Closed Circuit Television).

1. As a minimum the jail shall be equipped with a communication system monitored by a control center.

2. As a supplement to direct supervision, an intercom and CCTV shall be installed to observe, at a minimum, blind spots in main corridors, building entrances, and sally ports.

G. Telephone.

Telephone service shall be provided in all general population housing areas within the jail.

H. Emergency containment.

Alternate means for security containment shall be readily available in case of disaster, mass arrests or emergency evacuation. These facilities may be the exercise yard, an enclosed entrance sally port or any

other approved area which will afford adequate security. When planned for this purpose, these areas shall permit access to toilets and drinking water.

I. Commissary.

It is recommended that space [appropriate to the capacity of the jail] be provided for an inmate commissary [or provisions made for a mobile commissary service] .

J. Jail equipment.

All jail security equipment, fixtures, hardware, etc., shall be approved by the Department of Corrections.

K. Tamper resistant screws.

Tamper resistant screws shall be used at all locations where screw heads are exposed.

L. Wood products.

Wood or wood products shall not be used in the construction of the security area as part of the building structure.

M. Separation.

When constructed to house a combination of males, females or juveniles, each area shall be separated from the other in a manner which prohibits normal communication by sight or sound.

N. Food passes.

1. Food passes shall be installed in dayroom [/dormitory] walls or in dayroom [/dormitory] sally port doors and in all maximum [and medium] security cell doors. Food passes shall be located and installed in a manner which does not conflict with corridor rating requirements of the Building Code. Note: Holding and classification cells are considered maximum security.

2. The size of [an unsecured a] food pass shall be [4-1/2 to a maximum of] five inches high and [wide enough for the tray width required a minimum of 13 inches wide] .

[3. Food passes shall be required in dayrooms, special purpose areas, and maximum security cell doors.]

O. Key passes/paper passes.

A security type key pass/paper pass shall be provided in the wall of all control stations adjacent to inmate occupied areas.

PART IV.

CONSTRUCTION AND DESIGN REQUIREMENTS FOR LESS-SECURE FACILITIES.

§ 4.1. Less-secure construction.

Buildings or parts of buildings constructed for use as less-secure facilities shall not be used for the detention of secure custody level inmates without upgrade of construction to that required by § 3.1 of these standards. The requirements for less-secure facilities as described within §§ 4.1 through 4.2 reflect a noncombustible construction classification and a minimally secured institutional restrained building classification. Such structure houses work/study release, weekenders, or other inmates of less security consideration. Building components proposed shall address the strength, safety and durability characteristics for the custody level of the facility. Such components shall be approved by the Department of Corrections.

A. Walls, floors, ceilings.

1. Exterior walls shall be of masonry, concrete, stone or other durable fire resistant material.
2. Roof and floor construction shall be noncombustible.
3. Windows which are capable of being opened shall be provided with contraband screen and insect screen.
4. All interior finishes shall be durable, have a smooth finish and a flame spread rating of 25 or less, ASTM E-84.

B. Windows, doors.

1. Doors, windows and frames shall be heavy duty commercial or detention type.
2. Locks shall be at least heavy duty commercial and shall be remote release where required by the Building Code.

C. Lighting.

1. Light fixtures shall be of good quality secured with tamper resistant screws.
2. Intensity of lighting shall be in accordance with "Minimum Standards for Local Jails and Lockups."
3. Natural light is required in inmate housing areas.

§ 4.2. Less-secure design.

A. Housing units.

Less-secure housing shall be constructed in accordance with § 4.1 of this standard and shall be designed as follows:

1. Less secure housing shall be constructed as a separate building from the secure housing section of the jail or separated from the secure portion of a facility by a security wall.

2. Less secure housing shall [be designed to] consist of individual rooms or dormitories with not more than 25 inmates per dormitory or group of rooms. [For facilities having an occupancy in excess of 250 inmates, the number of occupants for which the units are designed may be increased but shall not exceed 50 persons per unit.]

3. All less secure housing shall [be designed to] provide a minimum of 50 square feet of living space per inmate in room or dormitory plus activity space(s) providing 35 square feet per inmate.

4. Each group of inmate rooms or dormitories shall be provided with artificial light, toilet fixtures, hot and cold water, mirror, bed/bunk and storage space for personal items. The number of plumbing fixtures in dormitories shall be in accordance with the Building Code.

5. Dormitories and activity spaces shall be equipped with tables and benches/chairs.

6. Showers (number in accordance with the Building Code) shall be provided in dormitories and for rooms. For individual rooms, showers and toilet facilities shall be located in a common area adjacent or convenient to rooms served. Common area toilets shall not accommodate more than 25 inmates.

7. Equipment used in less secure housing shall be heavy duty and appropriate to the needs of the security level.

8. Provisions shall be made for food service and laundry in less secure housing.

9. An area separate from the inmate living area shall be provided for the visiting public, clergy or lawyers and for use by counselors or other administrative staff.

B. Mechanical, plumbing and electrical.

1. Mechanical.

a. If constructed as a separate building, facilities shall be provided with a mechanical room which can be entered from outside the inmate area.

b. An emergency power source shall be provided sufficient to sustain, as a minimum, life safety operations.

c. All facilities shall be designed to provide adequate ventilation as required by the Building

Final Regulations

Code. Where natural ventilation is not feasible, the facility must be climate controlled.

2. Plumbing

a. Shower and toilet areas shall be provided with a wall coating which will withstand humidity, and will not chip or scale. Walls and floors shall be waterproofed.

b. All exposed plumbing shall, to the greatest extent possible, be kept flush with the walls and ceilings.

c. Sufficient floor (water) drains shall be located throughout the facility to inhibit water from standing on the floors.

d. A water fountain shall be provided in accordance with the Building Code.

e. All housing areas shall be provided with janitorial closets, water drains, and fire protection and storage.

f. Separate restroom facilities shall be located throughout the building(s) for use by security and administrative personnel.

g. If plumbing chases are the walk-in type, it is recommended that they be provided with a light to facilitate maintenance.

h. Plastic piping shall not be used inside the jail facility above ground floor slab.

3. Electrical

a. Wiring shall be run concealed to the greatest extent possible. Where wiring must be exposed and accessible, it shall be housed in IMC.

b. Wiring shall be in accordance with the Building Code.

C. Miscellaneous.

1. Elevators.

a. Separate buildings constructed as less secure housing with more than two floors shall be provided with an elevator(s) designed to comply with the Building Code. Recommend elevator be provided if building is more than one floor.

b. Elevators shall be of sufficient size to transport food carts. At least one elevator per facility shall be of sufficient size to transport stretchers.

2. Corridors. Corridors used for the movement of inmates, stretchers, food carts, etc., shall be constructed to provide a minimum of five feet in

width and eight feet in height. Dimensions for corridors not used for the above functions shall be no less than as required by the Building Code.

3. Handicapped. Facilities shall be constructed to provide rooms or dormitories to accommodate handicapped inmates at a minimum rate of one handicapped room for each 50 or fewer inmates [for which the facility is designed]. Counseling and program space shall be handicapped accessible. Provisions for handicapped employees and visitors shall be in accordance with the Building Code.

4. Intercom and CCTV.

a. As a minimum, the facility shall be equipped with a system capable of communicating with the control center.

b. As a supplement to direct supervision, an intercom and CCTV shall be installed to observe, at a minimum, blind spots in main corridors, building entrances, and sally ports.

5. Telephone. Telephone service shall be accessible within the facility.

6. Commissary. Provisions shall be made for commissary services.

7. Fencing. Fencing as specified in § 3.7 E shall be provided around the area in which the less secure building is erected. Where only weekenders, work/study release, and inmates of similar minor security consideration are housed, a fence is optional.

[PART V. CONSTRUCTION AND DESIGN REQUIREMENTS FOR NONSECURE FACILITIES.

§ 5.1. Nonsecure construction.

A. Localities experiencing overcrowding beyond 125% of the Department of Corrections' established operational capacity [(operational capacity plus an additional 25%)] may request special approval from the Board of Corrections to provide facilities under § 5.1, Nonsecure construction.

B. The requirements for nonsecure facilities described within this section reflect a combustible construction classification and a nonrestrained occupancy classification which has a more limited lifespan than the noncombustible/restrained type structure. These structures shall house the nonsecure classification of occupants as described in § 4.1. The building requirements for this type of structure shall conform to those in §§ 4.1 through 4.2 with the following Building Code notation:

1. All construction shall be in accordance with Uniform Statewide Building Code requirements for

combustible construction.

2. Combustible facilities shall be physically separated from adjacent structures for fire safety purposes (usually 30 feet minimum).

3. Combustible facilities shall provide sufficient area of refuge (usually 15 square feet per person at a safe distance from the building (usually 50 feet)).

4. Combustible facilities shall provide a security fence around the structure which shall encompass the area of refuge. The fence shall be a single fence with a minimum of 12 feet in height, nine gauge, two inch mesh, zinc coated, steel wire interwoven fence fabric. It shall have a minimum of three strands of barbed wire attached to support arms at the top of the line posts, angled to the inmate side. Fence components including but not limited to the top and bottom rails, line posts, terminal posts, tension bars, attachments, concrete footings for the fence, walk gates and truck gates, shall be in accordance with manufacturers' recommendations.

5. Building exterior doors shall have nonrestrictive exiting hardware, i.e., no key shall be required to exit out of the facility.

6. Mechanical equipment may be located on or within structure but shall be inaccessible to and secure from occupants.

7. Building components proposed shall exhibit the strength, safety and durability characteristics suitable and appropriate for the custody level of the facility. Such components shall be approved by the Department of Corrections.]

PART [~~V~~. VI.]

CONSTRUCTION AND DESIGN REQUIREMENTS FOR LOCKUPS.

[~~§ 5-1~~. § 6.1.] Lockups construction.

A lockup is a facility, the primary use of which is to detain persons for short periods of time as determined by the Board of Corrections.

A. Lockups shall meet the construction and life safety requirements of the Building Code and shall be of fireproof construction.

B. Lockups shall be composed of individual cells or an area for group holding. Cells shall be constructed to provide at least 35 square feet per person [for which the facility is designed] and have a ceiling elevation of eight feet. Group holding areas shall provide at least 15 square feet per person [for which the facility is designed], but in no case shall have less than 35 square feet of area.

C. Where necessary for separation of males and females,

cells shall provide separation which reduces sight and sound contact to a minimum.

D. Cell walls and the secure perimeter of the lock up area shall be constructed to meet standards specified in § 3.1 A 1 b.

E. Cell fronts and doors shall be equal to that required for maximum security housing in Part III of these standards.

F. All surfaces shall be smooth and painted with epoxy or oil base enamel or be of other approved durable finishes. Surface flame spread rating shall be Class I, 25 or less, ASTM E-84.

G. Each cell or area for group holding must be provided with a stainless steel combination toilet and lavatory with integral drinking fountain.

H. Each cell or area for group holding shall have one stationary steel or concrete wall bunk or bench.

I. Light, heat, and ventilation shall meet the requirements of that for secure construction in these standards.

J. Sufficient floor drains shall be provided throughout the lockup to prevent water from standing on the floors.

K. As a minimum, lockups shall be monitored by sound (intercom) or be directly supervised by staff on a continuous basis. Additional supervision by use of CCTV is preferable.

L. Security equipment and hardware shall be approved by the Department of Corrections. Tamper resistant screws shall be used in all locations where screw heads are exposed.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulations:

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-01-1. In General.

VR 325-02. GAME.

VR 325-02-1. In General.

VR 325-03. FISH.

VR 325-03-1. Fishing Generally.

VR 325-03-2. Trout Fishing.

VR 325-03-3. Seines and Nets.

VR 325-04. WATERCRAFT.

VR 325-04-1. In General.

Final Regulations

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701 and 29.1-744 of the Code of Virginia.

Effective Date: January 5, 1990

Summary:

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

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-01-1. IN GENERAL.

§ 12. Appointment of new consignment agents for sale of hunting and fishing licenses.

A. *Except as provided below, no person shall be appointed as a consignment agent for the sale of hunting and fishing licenses unless he first sells licenses on a cash basis for at least one year. In addition, the dollar volume of actual or projected sales must equal at least 90% of the average hunting and fishing license sales of consignment agents in the locality.*

B. *If the cash agent sells the required number of licenses, he may be appointed as a consignment agent, provided he is approved for a surety bond by the board's bonding company.*

C. *This regulation is applicable to new appointments and not to transfers of existing appointments ; within a locality, provided, that the director may appoint consignment agents as needed to provide for a minimum of two consignment agents within a locality. In addition, the director may appoint consignment agents on state-owned or state-leased facilities.*

§ 14. Endangered species—Definitions.

For the purposes of §§ 29.1-564 through 29.1-570 of the Code of Virginia, § 13 of this regulation and this section:

1. *"Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range within the Commonwealth, other than a species of the class Insecta deemed to be a pest whose protection would present an overriding risk to the health or economic welfare of the Commonwealth.*

2. *"Fish or wildlife" means any member of the animal kingdom, vertebrate or invertebrate, without limitation, and includes any part, products, egg or the dead body or parts thereof.*

3. *"Harass," in the definition of "take," means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal*

behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

4. *"Harm," in the definition of "take," means an act which actually kills or injures wildlife. Such act may include significant habitat modifications or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.*

5. *"Person" means any individual, firm, corporation, association or partnership.*

6. *"Special concern" means any species being considered by the director for listing as an endangered or a threatened species, but not yet the subject of a proposed rule.*

7. *"Species" includes any subspecies of fish or wildlife and any district population segment of any species or vertebrate fish or wildlife which interbreed when mature.*

8. *"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess or collect, or to attempt to engage in any such conduct.*

9. *"Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the Commonwealth.*

§ 14. § 15. Structures on department-owned lands.

There is no change in the text of this section. The only change is to renumber the section from 14 to 15.

VR 325-02. GAME.

VR 325-02-1. IN GENERAL.

§ 6. *Hunting with dogs or possession of weapons in certain locations during closed season.*

A. National forests and department lands.

It shall be unlawful to hunt with dogs or a gun or to have in possession a strung bow, or a gun which is not unloaded and cased or dismantled, in the national forests and on department-owned lands and on lands managed by the department under cooperative agreement except during the period when it is lawful to hunt bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, waterfowl, in all counties west of the Blue Ridge Mountains and , in addition, migratory game birds in all counties east of the Blue Ridge Mountains. The provisions of this section shall not prohibit the conduct of any activities authorized by the board or the establishment and operation of archery and shooting ranges on national forest the above-mentioned lands for the purpose of sighting in rifles and general shooting within established and identified range boundaries

The use of firearms and bows in such ranges during the closed season period will be restricted to the area within established range boundaries. Such weapons shall be required to be unloaded and cased or dismantled in all areas other than the range boundaries. The use of firearms or bows during the closed hunting period in such ranges will be restricted to target practice only and no birds or animals shall be molested.

B. Certain counties.

It shall be unlawful to have either a shotgun or a rifle in one's possession when accompanied by a dog in the daytime in the fields, forests or waters of the counties of Augusta, Clarke, Frederick, Page, Shenandoah and Warren, and in the counties east of the Blue Ridge Mountains, except Patrick, at any time except the periods prescribed by law to hunt game birds and animals.

C. Meaning of "possession" of bow or firearm.

For the purpose of this section the word "possession" shall include having any bow or firearm in one's car or conveyance.

VR 325-03. FISH.

VR 325-03-1. FISHING GENERALLY.

§ 2. Creel limits.

The creel limits for the various species of fish shall be as follows:

1. Largemouth, smallmouth and spotted bass, five a day in the aggregate; except, that on Briery Creek Lake (Prince Edward County) the limit shall be two per day in the aggregate.
2. Landlocked striped bass and landlocked striped bass X hybrids, in the aggregate, four a day; except, that in Smith Mountain Reservoir and its tributaries, including the Roanoke River upstream to Niagara Dam, the limit shall be two a day in the aggregate.
3. White bass, ~~no limit~~, except that in Gaston Reservoir the limit shall be 25 per day.
4. Walleye or yellow pike perch and sauger, ~~eight a day in the aggregate~~, and chain pickerel or jackfish, eight a day of each.
5. Northern pike and muskellunge, two a day.
6. Sauger, eight per day.
6. 7. Bluegill (bream) and other sunfish, including excluding crappie or silver perch and rock bass or redeye, ~~no limit~~ 50 a day in the aggregate; crappie or silver perch and rock bass or redeye, 25 a day of each species. There shall be no limit on any of the

species included in this subdivision 7 in Gaston and Buggs Island Reservoirs.

§ 3. Size limit.

Except as provided in this regulation and VR 325-03-2, §§ 5, 11, 12 and 13, there shall be no size limit on any species of fish.

1. There shall be a 30-inch minimum size limit on muskellunge, a 20-inch minimum size limit on northern pike and a 20-inch minimum size limit on landlocked striped bass (rockfish) and a 15-inch minimum size limit on landlocked striped bass X white bass hybrids.
2. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass in Occoquan Reservoir from the reservoir dam upstream to the Lake Jackson Dam on Occoquan Creek and upstream to the Yates Ford Bridge (Route 612) on Bull Run Creek. It shall be unlawful to have any such bass less than 14 inches in length in one's possession on the above described waters of this reservoir.
3. There shall be a 12-inch minimum size limit on largemouth, smallmouth and spotted bass in the Chickahominy, Claytor, Philpott and Flannagan Reservoirs, and in Lake Moomaw (Gathright Project), and in the waters of Fort A.P. Hill. It shall be unlawful to have any largemouth, smallmouth or spotted bass less than 12 inches in length in one's possession while on any of the waters mentioned in the preceding sentence.
4. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass on the Roanoke (Staunton) and Dan Rivers and their tributaries and impoundments (Gaston, John Kerr, Leesville and Smith Mountain Reservoirs) downstream from Niagara Dam on the Roanoke River and the Brantly Steam Plant Dam on the Dan River; except, that as many as two of such bass of a lesser size caught in such waters may be retained in the creel, but no more than two such bass may be in possession on such waters that are less than 14 inches in length.
5. It shall be unlawful to have any largemouth, smallmouth or spotted bass from 12 to 15 inches in length, both inclusive, in one's possession on North Anna Reservoir and its tributaries, on Chesdin Reservoir or the Appomattox River from the Brasfield (Chesdin) Dam to Bevel's Bridge on Chesterfield County Route 602, on Beaverdam Reservoir (Loudon County) and on the waters of Quantico Marine Reservation.
6. It shall be unlawful to have any walleye or yellow pike perch less than 15 inches in length in one's possession on Gaston Reservoir.

Final Regulations

7. It shall be unlawful to have any smallmouth, largemouth or spotted bass from 11 to 14 inches in length, both inclusive, in one's possession on the Shenandoah River, including the North and South Forks downstream from the Route 42 bridge on the North Fork and from the confluence of the North and South Rivers on the South Fork below Port Republic; on the New River from Clayton Dam to the West Virginia boundary line; ~~or~~ on the James River from the confluence of the Jackson and Cowpasture rivers downstream to the Interstate 95 bridge at Richmond; ~~or~~ on North Fork Pound Reservoir ; *or on the Clinch River within the boundaries of Scott, Wise, Russell or Tazewell Counties .*

8. It shall be unlawful to have any largemouth, smallmouth or spotted bass less than 18 inches in length [in one's possession] on Briery Creek Lake (Prince Edward County).

VR 325-03-2. TROUT FISHING.

§ 5. Size limit.

Except as otherwise specifically provided by the sections appearing in this regulation, there shall be a seven-inch minimum size limit on trout generally and a 10-inch minimum size limit on trout in Philpott Reservoir *and Moomaw Reservoirs.*

§ 12. Special provisions applicable to certain portions of Buffalo Creek, Mossy Creek, Smith Creek and Smith River.

It shall be lawful year around to fish using only artificial lures with single hooks in that portion of Buffalo Creek in Rockbridge County from the confluence of Colliers Creek upstream 2.9 miles to the confluence of North and South Buffalo Creeks, in that portion of Mossy Creek in Augusta County upstream from the Augusta/Rockingham County line to a sign posted at the confluence of Joseph's Spring, in that portion of Smith Creek in Rockingham County from a sign posted 1.0 miles below the confluence of Lacy Spring to a sign posted 0.4 miles above Lacy Spring, and in that portion of Smith River in Henry County from the east bank of Towne Creek for a distance of approximately three miles downstream *to the State Route 666 bridge crossing; except , that in Mossy Creek and Smith Creek, only flyfishing is lawful.* The daily creel limit in these waters shall be two trout a day year around and the size limit shall be 16 inches or more in length. All trout caught in these waters under 16 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any natural bait or any trout under 16 inches in length in these areas.

VR 325-03-3. SEINES AND NETS.

§ 1. Haul seines to take fish for sale.

A. Authorization to take fish for sale.

A haul seine permit shall authorize the person to whom issued to take fish for sale as specified with a haul seine from the waters designated in this section.

B. Permit holder to be present when seine operated.

The holder of a haul seine permit must be present with the same at all times when it is being operated. The holder, however, may have others to assist him and such persons assisting are not required to have a permit.

C. Length and size of nets.

The length of haul seine nets shall not be more than ~~250~~ 500 yards. The size of mesh shall be 1-1/2 inch bar mesh.

D. Season and fish to be taken in Chesapeake City; set nets prohibited.

In the Northwest River, the open season to take carp, grinnel, or bowfin, and catfish, generally known in that section as roundfish, and herring with a haul seine shall be from November 1 through May 15, both dates inclusive. All set nets shall be prohibited in the Northwest River.

E. Season and fish to be taken in Virginia Beach City.

In Back Bay and its natural tributaries (not including Lake Tecumseh and Red Wing Lake), North Landing River from the North Carolina line to Pungo Ferry (not including Blackwater River), the open season to take all fish, except game fish, with a haul seine shall be from November 1 through March 31, both dates inclusive.

F. Season and fish to be taken in Southhampton County.

In the Nottoway River, from Cary's Bridge to the North Carolina line, the open season to take shad, herring, mullet, and suckers, only, with a haul seine shall be from March 1 through May 15, both dates inclusive.

G. Labeling packages containing fish taken with haul seine.

It shall be unlawful for any person to ship or otherwise transport any package, box or other receptacle containing fish taken under a haul seine permit unless the same bears a label showing the name and address of the owner of the seine and a statement of the kind of fish contained therein.

§ 3. Gill nets.

A. Authorization to take fish.

A gill net permit shall authorize the holder thereof to take nongame fish during the times and in the waters and for the purposes provided for in this section. *Such gill net shall not be more than 300 feet in length. The mesh size shall be not less than 1-1/2 inch bar or square mesh*

(3-inch stretch mesh). Each net shall be identified by a department tag provided with such permit. All nets shall be checked daily and all game fish returned to the wild.

B. Time and place permitted in Southampton County.

Gill nets may be used in Southampton County only in the Nottoway River from Cary's Bridge to the North Carolina line from March 1 through May 15, both dates inclusive, to take fish for private table use only and not for sale.

C. Times and places permitted in Virginia Beach City; fish which may be taken.

Gill nets may be used in Virginia Beach City in Back Bay and its natural tributaries (not including Lake Tecumseh and Red Wing Lake) and North Landing River from the North Carolina line to Pungo Ferry (not including Blackwater River) for the taking of mullet only for table use and also for sale from July 1 through November 1, both dates inclusive; and for the taking of other nongame fish, except mullet, for table use and also for sale from November 1 through March 31, both dates inclusive. Gill nets set in Back Bay waters shall be at least 300 feet from any other net and as least 300 feet from the shoreline. All such nets shall be marked at both ends and at least every 100 feet along the length of the net with a five-inch by 12-inch minimum dimensions float.

VR 325-04. WATERCRAFT.

VR 325-04-1. IN GENERAL.

§ 6. Throughway channel in waters of Virginia Beach.

A. A throughway channel is established in the waters of the City of Virginia Beach from Bird Neck Point through Linkhorn Bay, the Narrows and Broad Bay to the mouth of Old Long Creek. The channel shall be clearly designated by appropriate channel markers approved by the department.

B. The throughway channel established by this section shall be used expressly for traversing the waters in which it is located. Such activities as fishing, crabbing, anchoring, water skiing, wind surfing and maneuvering of personal watercraft are prohibited. All cross traffic shall give way to vessels in transit in the channel.

DEPARTMENT OF LABOR AND INDUSTRY

REGISTRAR'S NOTICE: The following regulations filed by the Department of Labor and Industry are excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Labor and

Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulations: VR 425-02-26. Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite (1910.1101).

VR 425-02-09. Asbestos Standard for General Industry (1910.1001).

VR 425-02-10. Asbestos Standard for Construction Industry (1926.58).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: January 3, 1990

Summary:

On July 21, 1989, Federal OSHA published a fourth extension of its partial administrative stay of the Asbestos Standards for General Industry and the Construction Industry, 29 CFR 1910.1001 and 1926.58, insofar as they apply to nonasbestiform tremolite, anthophyllite and actinolite (53 Fed. Reg. 27345).

The initial stay was adopted on October 17, 1986 (51 Fed. Reg. 37002), and expired on April 21, 1987. The second stay was adopted on April 30, 1987, and expired on July 21, 1988. The third stay was adopted on July 20, 1988, and expired on July 21, 1989. This amendment will further extend the stay until November 30, 1990, and allow federal "OSHA to conduct supplemental rulemaking limited to the issue of whether nonasbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standard as asbestos, or should be treated in some other way. [Federal] OSHA also is making minor conforming amendments to notes to the affected standards" (53 Fed. Reg. 27345).

The Virginia Safety and Health Codes Board adopted the second stay at a meeting on June 29, 1987, and the third stay at a meeting on November 14, 1988. The initial stay was complied with by the department under a now revised administrative regulation scheme that did not require board adoption.

Section 1910.1101 (the 1972 Asbestos Standard) still applies to the nonasbestiform types for the duration of the stay.

A proposed rulemaking on this issue is scheduled for publication in October 1989 with Final Rule to be published in November 1990.

Since this amendment was adopted without public comment in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, the Department of Labor and Industry will receive consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Final Regulations

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite (1910.1101), the Asbestos Standard for General Industry (1910.1001), and the Asbestos Standard for Construction Industry (1926.58) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason, the standards will not be printed in The Virginia Register of Regulations. Copies of the standards are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 292, General Assembly Building, Capitol Square, Richmond, Virginia.

- VR 425-02-26. Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite (1910.1101).
VR 425-02-09. Asbestos Standard for General Industry (1910.1001).
VR 425-02-10. Asbestos Standard for Construction Industry (1926.58).

The Virginia Occupational Safety and Health Codes Board adopted the federal OSHA amendment to the Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite, Extension of Partial Stay, as codified in 29 CFR 1910.1001, 1910.1101 and 1926.58, and as published in the Federal Register on July 21, 1989 (54 Fed. Reg. 30704). The amendment as adopted is not set out.

* * * * *

Title of Regulation: VR 425-02-35. Formaldehyde Standard (1910.1048) - Virginia Occupational Safety and Health Standards for General Industry.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: January 3, 1990

Summary:

On July 13, 1989, federal OSHA published in the Federal Register an amendment to the Formaldehyde Standard, 1910.1048, which corrects typographical errors, omissions and inconsistencies in the standard.

The amendment corrects errors, omissions and inconsistencies in the provisions for respirator selection (Table 1 and paragraph (g)(2)(ii)), recordkeeping (paragraph (o)) and the appendices to the standard. (54 Fed. Reg. 29545)

Since this amendment was adopted without public comment in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, the Department of Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Formaldehyde Standard (1910.1048) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the standard itself will not be printed in The Virginia Register of Regulations. Copies of this standard are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 292, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-35. Formaldehyde Standard (1910.1048).

The Virginia Occupational Safety and Health Codes Board adopted the federal OSHA amendment to the Formaldehyde Standard as codified in 29 CFR 1910.1048, and published in the Federal Register, Vol. 54, No. 133, Thursday, July 13, 1989, pp. 29545-29546. The amendments as adopted are not set out.

COMMONWEALTH of VIRGINIA



VIRGINIA CODE COMMISSION
General Assembly Building

POST OFFICE BOX 3443
RICHMOND, VIRGINIA 23208
504 756-2531

November 15, 1989

Louis J. Cernak, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Ms. Margaret T. Gravett

Re: VR 425-02-26, 425-02-09, and 425-02-10.
Asbestos Standard for Non-Asbestiform Tremolite,
Anthophyllite and Actinolite

Dear Ms. Gravett:

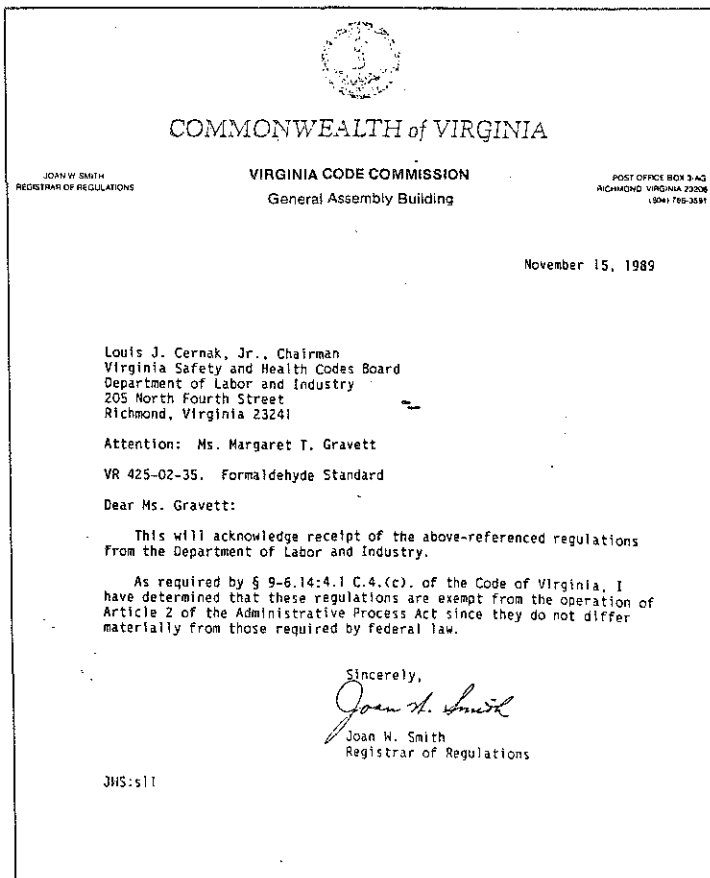
This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

Joan H. Smith
Registrar of Regulations

JWS:sll



federal stay will remain in effect until June 13, 1990, to allow federal OSHA to conduct rulemaking on the issue. In the interim, employers must comply with the provisions of the Hazard Communication Standard, 1910.1200.

Federal OSHA initially adopted the Formaldehyde Standard on December 4, 1987, with Hazard Communication provisions that were slightly different than the generic requirements in the Hazard Communication Standard. Both standards covered mixtures or solutions containing more than 0.1% formaldehyde; however, the Formaldehyde Standard went further and provided that Hazard Communication requirements (labeling, MSDS, training, etc.) would also apply to materials (apparel and wood products) "capable of releasing formaldehyde into the air at concentrations reaching or exceeding 0.1 parts per million (PPM) under normal conditions of use." (53 Fed. Reg. 50199). Materials that released concentrations below the .1 ppm were given a de minimis exemption from complying with the Hazard Communication provisions.

According to federal OSHA, the de minimis exemption has resulted in universal misunderstanding and confusion. To eliminate the confusion and to move away from the initial approach of having separate and different Hazard Communication provisions in its substance specific standards, federal OSHA has determined to issue the Administrative Stay and enforce the generic Hazard Communication Standard. This amendment extends the stay for an additional nine months.

Since this amendment was adopted without public comment in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, the Department of Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 425-02-35. Formaldehyde Standard (1910.1048) - Virginia Occupational Safety and Health Standards for General Industry.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: January 3, 1990

Summary:

On December 13, 1988, federal OSHA published in the Federal Register an Administrative Stay of the Hazard Communication Provisions of the Formaldehyde Standard, 1910.1048(m)(1)(i) through (m)(4)(ii) to allow for additional rulemaking on the issue.

The change extends the administrative stay. The


Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Formaldehyde Standard (1910.1048) is declared a document general available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 292, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-35. Formaldehyde Standard (1910.1048).

The Virginia Occupational Safety and Health Codes Board adopted the federal OSHA amendment to the Formaldehyde Standard as codified in 29 CFR 1926.1048, and published in the Federal Register, Vol. 54, No. 166, Tuesday, August 29, 1989, p. 35839. The amendment as adopted is not set out.

Final Regulations


COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

POST OFFICE BOX 3-42
RICHMOND, VIRGINIA 23208
(804) 786-3081

November 15, 1989

JOAN W. SMITH
REGISTRAR OF REGULATIONS

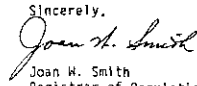
Louis J. Cernak, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

Attention: Ms. Margaret T. Gravett
VR 425-02-35. Formaldehyde Standard

Dear Ms. Gravett:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by Federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:s11

hoisting equipment); work in "gassy" operations (e.g., monitoring air quality); ventilation; fire prevention; welding, cutting and hot work; blasting and drilling; electrical safety and hoisting.

The federal standard was amended to reference the VOSH Confined Space Standard, 1910.146, to assure consistency and uniformity in the safety and health measures to be taken by employees while working in underground construction areas which also meet the definition of "confined space" contained in 1910.146. The amendments only serve to reference requirements in 1910.146 which were already applicable to underground construction areas meeting the definition of "confined space."

The amendment requires employers to comply with any more stringent requirements contained in 1910.146 when working in underground construction areas which also meet the definition of "confined space" in 1910.146. In addition, the amendment changes the atmospheric testing requirement for oxygen from a maximum level of 22% oxygen in the air to 23% (the maximum level in 1910.146 is 23%).

Since this amendment was adopted without public comment in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, the Department of Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Underground Construction Standard (1926.800) is declared a document general available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 292, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-65. Underground Construction Standard.

Title of Regulation: VR 425-02-65. Underground Construction Standard.

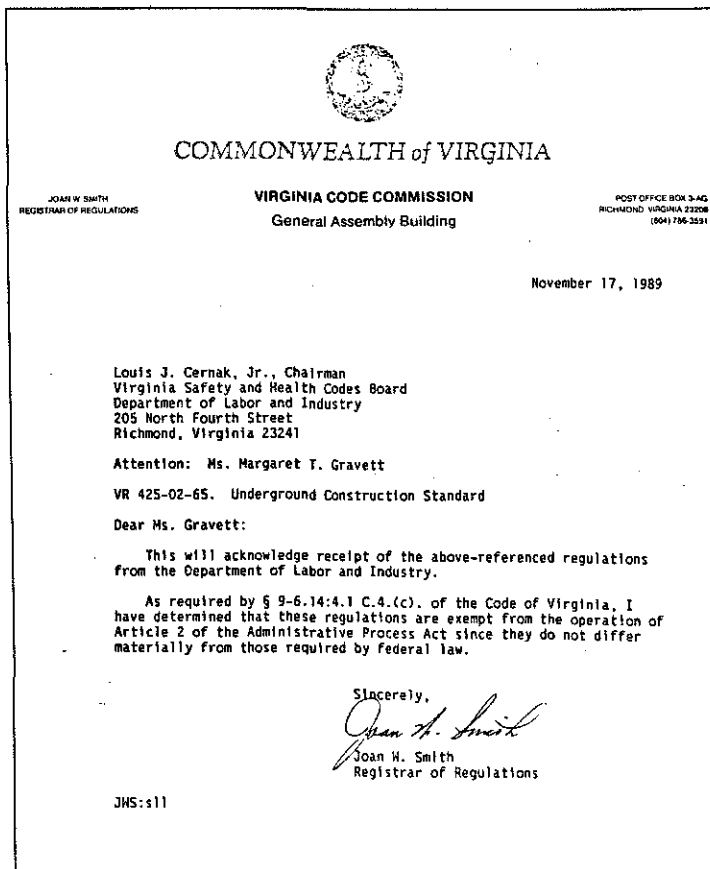
Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: January 3, 1990

Summary:

The revised standard clarifies the type of operations covered (e.g., cut-and-cover operations). It addresses such areas as access and egress; check-in/check-out procedures; safety training (e.g., nine-point safety program); notification to on-coming shift about hazardous conditions; emergency provisions (e.g.,

The Virginia Occupational Safety and Health Codes Board adopted a substantially identical version of federal OSHA's Underground Construction Standard, 29 CFR 1926.800, as published in the Federal Register on June 2, 1989. The federal version was amended to reference the additional requirement contained in the Virginia Occupational Safety and Health (VOSH) Confined Space Standard for General Industry and the Construction Industry, 1910.146. The amendments as adopted are not set out.



(existing standard required "continuous positive means of engagement between the platform and the building facade"), uses "performance oriented language, expands the scope to include coverage of interior installations (atriums) and includes requirements for emergency planning, employee training and personal fall protection for employees using powered platforms." (54 Fed. Reg. 31408)

"The previous OSHA standard for powered platforms (29 CFR 1910.68) was promulgated in 1971 from a national consensus standard (American National Standards Institute (ANSI) A120.1-1970...."

It "required that all platforms be stabilized by direct attachment to continuous guide rails in the building facade, whenever the building height is greater than 130 feet (39.6 m) in height. For structures less than 130 feet (39.6 m) in height, continuous guide rails were not required, but the platform had to be equipped with building face rollers and angulated suspension wire ropes, which would cause the platform to exert pressure against the building facade. The purpose of these requirements was to stabilize the platform while it is in use by absorbing wind forces and horizontal forces caused by personnel movement on the platform.

During the years immediately following the promulgation of the OSHA standard, most high rise buildings were designed with straight building facades. The design adapted readily to the continuous guiderail requirement. In recent years, however, architects have also been designing buildings with multiple vertical planes, setbacks and complicated corner arrangements. These design changes may be the result of aesthetic considerations or an effort to conserve energy. Energy costs, for example, have led to building designs with fewer and smaller windows, projecting awnings to reduce cooling needs and recessed windows to provide insulation from outside temperatures.

These changes in building design have often made it difficult, infeasible, or costly to use continuous guide rails on many building facades. As a result, the new designs for high rise buildings have been responsible for the development of new types of stabilization systems for powered platforms. These new systems have provided employers the opportunity to select appropriate stabilization equipment that is capable of providing equivalent safety for workers and significant cost savings.

The previous OSHA powered platform standard did not address or allow this developing technology, and OSHA had received a significant number of requests for variances from the standard." (Id.)

"A powered platform is a suspended, manned platform that is installed on a building and is used to maintain the building facade. It is part of an installation which

* * * * *

Title of Regulation: VR 425-02-67. Virginia Occupational Safety and Health Standards for General Industry - Standard Concerning Powered Platforms for Building Maintenance (1910.68).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: January 3, 1990

Summary:

On July 28, 1989, federal OSHA published in the Federal Register its standard concerning Powered Platforms for Building Maintenance. The standard permits the use of alternative stabilization systems

Final Regulations

consists of the working platform, suspension means, fall arrest systems and the requisite operating and control devices." (Id.)

"Powered platforms and suspension scaffolds are the basic types of powered suspended work surfaces used to perform such outside building maintenance tasks as window washing, building and window caulking, inspecting building exteriors, etc. A powered platform covered under 29 CFR 1910.66 (Subpart F) is a powered suspended work surface that is permanently dedicated to a specific building and is the property of the building owner. A suspension scaffold covered under 29 CFR 1910.28 (Subpart D) is a powered suspended work surface that is brought to the building and is the property of the window washer and/or the outside building maintenance contractor. The selection of either a powered platform or a suspension scaffold for exterior building maintenance is made by the building developer when the building is initially designed. Although there are approximately 10 times more suspension scaffolds than powered platforms used for window washing and exterior building maintenance, approximately 90% of the new high-rise office buildings (60 stories or more) utilize powered platforms because it is often technologically infeasible to use suspension scaffolds on very tall buildings. In addition, powered platforms are safer at very high elevations than are suspension scaffolds because powered platforms are less susceptible to being destabilized by wind than are suspension scaffolds." (54 Fed. Reg. 31454)

"OSHA does not require that a powered platform be used on any building. OSHA does require, however, that if a powered platform is used, then the Subpart F requirements must be met.

The existing Subpart F requires all powered platforms to use a continuous track stabilization system that consists of indented mullions or T-rails embedded in the building wall and guide rollers or shoes attached to the platform that lock the platform to the building by remaining in continuous contact with the intended mullions or T-rails. The continuous track stabilization system is the least expensive platform stabilization system to install on buildings of straight vertical steel (aluminum) and glass curtain walls. Architectural styles that feature offsets in walls, however, make continuous track stabilization systems technically infeasible on many of those buildings." (Id.)

"Although the revised standard affects every building that has a powered platform, not every such building is affected by every provision. In particular, although all buildings are affected by the provisions governing powered platform maintenance, only buildings to be constructed are affected by the new provisions governing powered platform design and installation. OSHA estimates that there are 6,865 existing buildings with 9,600 powered platforms and that 265 new

buildings with 370 powered platforms are constructed annually. Of these new buildings, OSHA estimated that under the revised standard, 140 will use the continuous track stabilization system, 115 will use the intermittent tie-in stabilization system, and 10 will use the button stabilization system." (Id.)

"The population-at-risk are the employees who use powered platforms to service high-rise office buildings. These employees are employed in the two industry sectors of: (1) Window cleaning contractors (a subset of SIC 7349 "Building Cleaning and Maintenance Services, Not Elsewhere Classified"); and (2) caulking building exteriors, sandblasting of building exteriors, and steam cleaning of building exteriors (subsets of SIC 1799, "Special Trade Contractors, Not Elsewhere Classified" and of other firms in SIC 7349).

OSHA estimates that 8,150 employees of whom 6,900 are window washers and 1,240 are exterior building maintenance workers may work on a powered platform and be at risk from the potential hazard of falling from an elevation." (54 Fed. Reg. 31454-55)

"The revised standard is technologically feasible because it allows the use of platform stabilization methods that are already being used on existing buildings. The new design and installation requirements apply only to new powered platforms and all of the technical information and equipment necessary to comply with the revised standard is developed and in use." (54 Fed. Reg. 31455)


Since this amendment was adopted without public comment in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, the Department of Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Standard Concerning Powered Platforms for Building Maintenance (1910.66) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 292, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-67. Standard Concerning Powered Platforms for Building Maintenance (1910.66)

The Virginia Occupational Safety and Health Codes Board adopted the federal OSHA Standard Concerning Powered Platforms for Building Maintenance (1910.66) as codified in 29 CFR 1926.66, and published in the Federal Register, Vol. 54, No. 144, Tuesday, July 28, 1989, pp. 31456-31477. The amendments as adopted are not set out.


COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

JOAN W. SMITH
REGISTRAR OF REGULATIONS

POST OFFICE BOX 3-442
RICHMOND, VIRGINIA 23208
6041 706-2591

November 15, 1989

Louis J. Cernak, Jr., Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

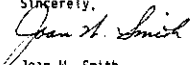
Attention: Ms. Margaret T. Gravett

Re: 425-02-67. Standard Concerning Powered Platforms for Building Maintenance

Dear Ms. Gravett:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:sll

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

Effective Date: January 4, 1990.

Summary:

This final regulation is needed to conform the Plan to federal regulation 42 CFR 441.56 which requires the agency to provide persons eligible for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) with "diagnosis and treatment for defects in vision..." Orthoptics services must be covered for EPSDT recipients even if not otherwise covered in the Plan.

VR 460-03-3.1100. Amount, Duration, and Scope of Services.

General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
(BOARD OF)**

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations which are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested persons at any time with respect to reconsideration or revision.

Title of Regulation: VR 460-03-3.1100. Amount, Duration and Scope of Services. (Coverage of Orthoptics.)

Final Regulations

thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admission will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly

situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

J. The department may waive portions or all of the utilization review documentation requirements of subsections A, D, E, G, or H in writing for specific hospitals from time to time as part of its ongoing hospital utilization review performance evaluation.

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

a. Are furnished to outpatients;

b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

c. Are furnished by an institution that:

(1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

(2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

3. Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

No limitations on this service.

§ 3. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

§ 4. Skilled nursing facility services, EPSDT and family planning.

4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Eyeglasses are provided only as a result of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and require prior authorization by the Program. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this services.

4c. Family planning services and supplies for individuals of child-bearing age.

Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is

surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

I. Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly executed second surgical opinion form has been submitted

Final Regulations

with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive eligibility period.

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. Optometric services.

1. Diagnostic examination and optometric treatment procedures and services (except for orthoptics) by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services.

Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

§ 7. Home Health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

Service covered only as part of a physician's plan of care.

§ 8. Private duty nursing services.

Not provided.

§ 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;
2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and
3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

§ 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. The following services are not covered: full banded orthodontics; permanent crowns and all bridges; removable complete and partial dentures; routine bases under restorations; and inhalation analgesia.

D. The state agency may place appropriate limits on a service based on dental necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/12 months); routine amalgam and composite

restorations (once/three years); and extractions, permanent crowns, endodontics, patient education (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§ 11. Physical therapy and related services.

11a. Physical therapy.

Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11b. Occupational therapy.

Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see General section and subsections 11a and 11b of this section.)

These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

1. Nonlegend drugs, except insulin, syringes, needles, diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

2. Legend drugs, with the exception of anorexiants drugs prescribed for weight loss and transdermal drug delivery systems, are covered. Coverage of anorexiants for other than weight loss requires preauthorization.

3. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of

Final Regulations

effectiveness.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

12b. Dentures.

Not provided.

12c. Prosthetic devices.

Not provided.

12d. Eyeglasses.

Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code.

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

13a. Diagnostic services.

Not provided.

13b. Screening services.

Not provided.

13c. Preventive services.

Not provided.

13d. Rehabilitative services.

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

2. Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

3. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost

reimbursement principles are defined in Attachment 4.19-A.

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

14a. Inpatient hospital services.

Provided, no limitations.

14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

Not provided.

§ 17. Nurse-midwife services.

Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

Not provided.

§ 19. Extended services to pregnant women.

19a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to this group as to all other recipient groups.

19b. Services for any other medical conditions that may complicate pregnancy.

The same limitations on all covered services apply to this group as to all other recipient groups.

§ 20. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

20a. Transportation.

Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

20b. Services of Christian Science nurses.

Not provided.

20c. Care and services provided in Christian Science sanatoria.

Provided, no limitations.

20d. Skilled nursing facility services for patients under 21 years of age.


Provided, no limitations.

20e. Emergency hospital services.

Provided, no limitations.

20f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.


COMMONWEALTH of VIRGINIA

JUAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

POST OFFICE BOX 340
RICHMOND, VIRGINIA 23208
(804) 786-2591

November 9, 1989

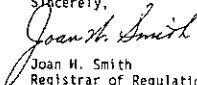
Bruce U. Kozlowski, Director
Department of Medical Assistance Services
Suite 1300
600 East Broad Street
Richmond, Virginia 23219

Re: VR 460-03-3.1100. Coverage of Orthoptics

Dear Mr. Kozlowski:

This will acknowledge receipt of the above-referenced regulations from the Department of Medical Assistance Services.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

Joan H. Smith
Registrar of Regulations

JWS:s11

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-3-400.1. Corporation Income Tax: Telecommunications Companies.

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

Effective Date: January 3, 1990

Summary:

Effective for taxable years beginning on and after January 1, 1989, telecommunications companies formerly subject to the state license tax on gross receipts, administered by the State Corporation Commission, will be subject to the Virginia corporation income tax. This change is the result of legislation

Final Regulations

enacted by the 1988 Virginia General Assembly (1988 Acts, Chapter 899).

Telecommunications companies will be subject to the greater of the Virginia corporation income tax or to the minimum tax based on gross receipts. In order to minimize the effects of the transition from the license tax on gross receipts to the corporation income tax, the full corporate income tax will be phased in over a 10-year period from 1989 through 1998. During this phase in period, telecommunications companies, which pay the corporate income tax, may be allowed a credit against the tax under certain conditions. If a company is subject to the minimum tax, it will not be eligible for a credit.

While the Department of Taxation will administer the taxation of telecommunications companies, the SCC will make all determinations regarding a company's status as a telecommunications company. The SCC will determine and certify the amount of gross receipts, as defined by law, to the department annually.

Two changes were made to the regulation after the proposed regulation was published in the Virginia Register on August 28, 1989.

In response to a comment received during the public comment period, § 7 B 3 of the regulation was revised to limit the income tax credit to the amount of the telecommunications company's separate tax, rather than the telecommunications company's portion of the consolidated or combined income tax. Examples 2 and 3 in § 7 were modified to reflect this change in the limitation of the income tax credit.

In response to another comment received, § 10 C of the regulation was amended to require that returns filed by noncorporate telecommunications companies be marked "RETURN BY NONCORPORATE TELECOMMUNICATIONS COMPANY."

VR 630-3-400.1. Corporation Income Tax: Telecommunications Companies.

§ 1. Definitions.

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

"Calendar year" means a 12-month period beginning on January 1 and ending on December 31.

"Company" means a telecommunications company as certified by the State Corporation Commission to the Department of Taxation.

"Department" means the Department of Taxation.

"Gross receipts" means the amount of "gross receipts"

certified to the Department of Taxation by the State Corporation Commission. This amount is defined in § 58.1-400.1 of the Code of Virginia to mean "all revenue from business done within the Commonwealth, including the proportionate share of interstate revenue attributable to the Commonwealth, if such inclusion will result in annual gross receipts exceeding \$5 million, with the following deductions:

1. Revenue billed on behalf of another such telephone company or person to the extent such revenues are later paid over to or settled with that telephone company or person; and

2. Revenues from carrier access charges received from a telephone company which is holding a certificate of public convenience and necessity from the State Corporation Commission or from a telephone utility company providing interstate communications service, together with all revenue from billing and collection amounting to less than \$500,000 per year, and all revenues from shared network facilities agreements established under federal court order and like revenue received by other local exchange carriers."

"License tax" means the tax imposed on a telecommunications company under Article 2 of Chapter 26 (§ 58.1-2600 et seq.) of the Code of Virginia.

"Minimum tax on telecommunications companies" or "minimum tax" means an amount of tax computed as a specified percent of the gross receipts of a telecommunications company pursuant to § 58.1-400.1 of the Code of Virginia.

"NOL" means net operating loss.

"NOLD" means net operating loss deductions.

"SCC" means the State Corporation Commission

"Sales" means the gross receipts of the telecommunications company from all sources not allocated under § 58.1-407 of the Code of Virginia regardless of whether or not such receipts are included in the amount of gross receipts, as defined above.

"Taxable year" means the calendar or fiscal year for federal income tax purposes.

"Telecommunications company (TC)" means a company certified to the Department of Taxation by the State Corporation Commission as a telecommunications company. Such a company is defined in § 58.1-400.1 of the Code of Virginia to mean

a telephone company or other person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing local exchange telephone service, interexchange service,

radio common carrier system or a cellular mobile radio communications system, or holding a certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing telephone service; or a telegraph company or other person operating the apparatus necessary to communicate by telegraph.

"Telecommunications company income tax credit" means an amount computed with regard to the gross receipts of a telecommunications company available to offset the corporate income tax imposed on such company under § 58.1-400 of the Code of Virginia.

§ 2. Tax administration.

A. Generally.

Effective for taxable years beginning on and after January 1, 1989, telecommunications companies formerly subject to the license tax on gross receipts, administered by the State Corporation Commission (SCC), will be subject to the Virginia corporation income tax. This change is the result of legislation enacted by the 1988 Virginia General Assembly (1988 Acts, Chapter 899).

B. State Corporation Commission.

While no longer subject to the state license tax on gross receipts or to the state pole line tax, telecommunications companies will still pay regulatory revenue taxes to the SCC based on gross receipts (§§ 58.1-2660 through 58.1-2665 of the Code of Virginia). The SCC will continue to be the central state agency responsible for the assessment of all property of telecommunications companies.

The SCC will make all determinations regarding a company's status as a telecommunications company. The SCC will determine and certify the amount of gross receipts, as defined by law, to the department annually.

Telecommunications companies may petition the SCC for review and correction of the company's status or the amount of gross receipts certified. The petition should be in compliance with the Rules of Practice and Procedures of the SCC.

C. Department of Taxation.

For taxable years beginning on and after January 1, 1989, telecommunications companies will be subject to the greater of the Virginia corporation income tax or to a minimum tax based on gross receipts. In order to minimize the effects of the transition from the license tax on gross receipts to the corporation income tax, the full corporate income tax will be phased in over a 10-year period from 1989 through 1998. During this phase in period, telecommunications companies, which pay the corporate income tax, may be allowed a credit against the tax under certain conditions. If a company is subject to the minimum tax, it will not be eligible for a credit.

D. Other regulations.

Except as provided in this regulation, the provisions of all regulations adopted pursuant to § 58.1-203 of the Code of Virginia to interpret Title 58.1 of the Code of Virginia are applicable to the taxation of telecommunications companies by the Department of Taxation.

§ 3. Imposition of tax.

A. Generally.

Telecommunications companies must calculate both their minimum tax as provided in § 4 and their income tax liability as provided in § 5 for each taxable year. For each taxable year, the tax liability of a telecommunications company will be the greater of its minimum tax or of its corporate income tax.

B. Amended return.

If due to a change in federal taxable income, or for any other reason, the Virginia taxable income or gross receipts of a telecommunications company is changed, an amended return must be filed. The minimum tax and corporate income tax must be recomputed to determine which tax is applicable to the telecommunications company.

EXAMPLE 1: Telecommunications Company (TC) is a calendar year filer for federal income tax purposes. For calendar year 1990, it has \$200,000 in gross receipts and Virginia taxable income equal to \$35,000. TC's minimum tax liability is \$2,400 ($\$200,000 \times 1.2\%$) and its Virginia income tax is \$2,100 ($\$35,000 \times 6.0\%$). Because TC's minimum tax liability exceeds its income tax liability, it is subject to the minimum tax and must pay \$2,400 in tax.

EXAMPLE 2: Same facts as in Example 1. In 1993 the Internal Revenue Service audits TC for calendar year 1990 and determines that the company overreported its wage expense by \$6,000; thus TC's federal taxable income for calendar year 1990 was underreported by \$6,000. TC subsequently amends its Virginia income tax return for calendar year 1990 to report the additional \$6,000 in taxable income. The amended return still shows a minimum tax liability of \$2,400 (no charge in gross receipts) and an income tax liability of \$2,460, 6.0% of ($\$35,000 + 6,000$). Since TC's income tax liability is now higher than its minimum tax liability, it is now subject to the income tax. TC owes the department \$60 ($\$2,460 - \$2,400$).

§ 4. Minimum tax on telecommunications companies.

A. Generally.

Effective for any taxable year that includes January 1, 1989, or begins after January 1, 1989, a telecommunications company may be subject to a minimum tax. The minimum tax will be applicable when such tax exceeds the corporate income tax imposed under

Final Regulations

§ 58.1-400 of the Code of Virginia.

B. Determination of gross receipts.

For each taxable year, the minimum tax of a telecommunications company is computed on the gross receipts of such company for the calendar year which ends during the taxable year.

If a company files an income tax return for a period of less than 12 months, the minimum tax is computed on the gross receipts for the calendar year which ends during the taxable period. If no calendar year ends during the taxable period, the minimum tax is computed on the gross receipts of the most recent calendar year which ended before the taxable period.

For taxable years that begin before January 1, 1989, include January 1, 1989, and end before December 31, 1989, the minimum tax is computed on the gross receipts received during calendar year 1988. The minimum tax rate applicable to calendar year 1989 shall be used.

EXAMPLE 1. If Company A's taxable year begins on April 1, 1990, and ends March 30, 1991, the minimum tax would be computed on the gross receipts for calendar year 1990.

EXAMPLE 2. Company B, a calendar year filer, goes out of business on April 30, 1992. For income tax purposes, its taxable year begins on January 1, 1992, and ends on April 30, 1992. Its minimum tax would be computed on the gross receipts for calendar year 1991.

C. Minimum tax rate.

In computing the minimum tax, a telecommunications company will use the minimum tax rate applicable to the calendar year as determined in subsection B above. The applicable minimum tax rate for each calendar year will be phased down in accordance with the rate schedule set forth in § 58.1-400.1 of the Code of Virginia, as follows:

Gross Receipts Earned During Calendar Year	Minimum Tax Rate
1989	1.2% of gross receipts
1990	1.2% of gross receipts
1991	1.0% of gross receipts
1992	0.9% of gross receipts
1993	0.8% of gross receipts
1994	0.7% of gross receipts
1995	0.6% of gross receipts
1996 and years thereafter	0.5% of gross receipts

D. Computation of minimum tax.

1. *Generally.* For each taxable year, the minimum tax liability of a telecommunications company is computed by multiplying the gross receipts for the

calendar year specified in subsection B by the minimum tax rate specified in subsection C.

EXAMPLE: For taxable year 1991, Telecommunications Company (TC) files its federal and Virginia income tax return on a fiscal year basis for the year beginning July 1, 1991, and ending June 30, 1992. For taxable year 1991, TC bases its minimum tax liability on its gross receipts earned during calendar year 1991, which is multiplied by the minimum tax rate for calendar 1991 (1.0%) to compute its minimum tax liability.

2. *Short taxable periods.* If the income tax return is filed for a taxable period of less than 12 months, the minimum tax should be computed as follows:

a. Compute the minimum tax as set forth in subsection D 1 above.

b. Prorate the tax by multiplying the minimum tax by the number of months in the short taxable period divided by 12.

EXAMPLE: The same facts as in the example above, except that TC goes out of business on December 31, 1991, and files a short taxable period return for the period beginning July 1, 1991, and ending December 31, 1991. TC bases its minimum tax liability on its gross receipts earned during calendar year 1991. The amount of gross receipts earned during calendar year 1991 is multiplied by the minimum tax rate for calendar year 1991 (1.0%) and the result is multiplied by 6/12 (the number of months in the short taxable period divided by 12) to compute its minimum tax liability.

§ 5. Corporation income tax.

A. Generally.

With the exception of the differences set forth in these regulations, a telecommunications company shall compute its Virginia taxable income and corporation income tax in accordance with the requirements applicable to corporations generally.

B. Business entirely within Virginia.

1. *Generally.* For purposes of determining if the entire business of a telecommunications company is conducted within Virginia, the provisions of § 58.1-405 of the Code of Virginia and VR 630-3-405 shall be applicable.

2. *Computation of income tax.* If under the provisions of subdivision 1 of this section, it is determined that the entire business of a telecommunications company is conducted within Virginia, the tax imposed by § 58.1-400 of the Code of Virginia shall be upon the entire Virginia taxable income.

C. Allocation and apportionment.

1. Generally. The Virginia taxable income of a telecommunications company which is subject to taxation both within and without Virginia, as defined in § 58.1-405 of the Code of Virginia and VR 630-3-405, shall be allocated and apportioned its Virginia taxable income as provided in §§ 58.1-407 through 58.1-416 of the Code of Virginia and regulations adopted pursuant to these sections and subject to the special requirements set forth below.

2. When sales are deemed to be made in Virginia. In determining when a sale, other than a sale of tangible personal property, occurs in Virginia, the location of the income producing activity must be determined. (Section 58.1-416 of the Code of Virginia and VR 630-3-416.)

For purposes of this regulation, the income producing activity is presumed to occur in Virginia for any services or charges billed to a Virginia service address, except that with respect to charges for interstate communications services, more income producing activity will be presumed to occur in Virginia than in any other state if both:

a. Communications either originate or terminate within Virginia; and

b. The charge for the communication is billed to a service address within Virginia.

3. Computation of income tax. The corporation income tax of a telecommunications company subject to taxation both within and without Virginia shall be computed in the same manner as any other corporation subject to taxation both within and without Virginia.

D. Net operating loss modifications.

In addition to the modifications applicable to corporations generally, telecommunications companies are required to make the following modifications to federal taxable income in the computation of Virginia taxable income:

1. Addition for net operating loss deduction. If federal taxable income for any taxable year has been reduced by a net operating loss deduction (NOLD) attributable to a net operating loss incurred in a taxable year beginning before January 1, 1989, then such NOLD must be added to federal taxable income.

2. Subtraction for net operating loss deduction. Because federal law required a NOLD to be carried back to the earliest year in which there is income to be offset, a telecommunications company incurring a net operating loss in a taxable year beginning on or after January 1, 1989, might be required to carry such loss back to taxable years beginning before January 1, 1989. Since a telecommunications company

was not subject to Virginia income tax for years beginning before January 1, 1989, it would receive no Virginia benefit from such carryback, and the NOLD for other taxable years would be reduced or eliminated by the required federal carryback.

In this situation, telecommunications companies must add back the NOLD actually allowed on their federal returns for taxable years beginning before January 1, 1989, which is attributable to a loss occurring in a taxable year beginning on or after January 1, 1989. A new NOLD is computed for Virginia purposes following the federal law and regulations except that no such loss is carried back to a taxable year beginning before January 1, 1989.

EXAMPLE 1: XYZ Co. is a telecommunications company reporting on a calendar year basis. For the years 1986 - 1992 XYZ Co. had no additions or subtractions to federal taxable income except for an adjustment for net operating loss deductions. The income of XYZ is as follows:

Federal taxable income before	1985	1986	1987	1988	1989
NOLD	50,000	50,000	25,000	(150,000)	75,000
NOLD	(50,000)	(50,000)	(25,000)	-	(25,000)
Federal taxable income	-0-	-0-	-0-	-0-	50,000
Virginia NOL adjustment					25,000
Virginia taxable income				(Virginia income tax not imposed)	75,000

Under federal law the 1988 net operating loss is first carried back to offset 1985, 1986 and 1987 income. There would be \$25,000 of the NOL remaining to be carried forward and deducted on XYZ Co.'s 1989 federal return. Because the loss occurred in a taxable year beginning before January 1, 1989, the NOLD on the 1989 return must be added to federal taxable income to determine Virginia taxable income.

EXAMPLE 2: Same facts as Example 1 except that the loss occurred in 1990. The income of XYZ Co. is as follows:

Federal taxable income before	1987	1988	1989	1990	1991	
NOLD	25,000	25,000	75,000	(100,000)	75,000	
NOLD	(25,000)	(25,000)	(50,000)	-	-0-	
Federal taxable income	-0-	-0-	25,000	-0-	75,000	
Virginia NOL adjustment			+50,000 (Virginia income) (75,000)		(25,000)	
Virginia taxable income			(Tax not imposed)	-0-	-0-	50,000

Under federal law the 1990 net operating loss is first carried back to offset 1987 and 1988 income. The remaining \$50,000 NOL is carried back to the 1989 federal return.

Because the loss occurred in a taxable year beginning on and after January 1, 1989, the entire NOL will be

Final Regulations

available to offset Virginia income reported in taxable years beginning on and after January 1, 1989. The federal NOLD of \$50,000 is first added to the 1989 federal taxable income and then a new Virginia NOL carryback is computed and subtracted. The federal laws and regulations are followed except that no NOL shall be carried back further than 1989. The result is that the carryback to 1989 is \$75,000 instead of \$50,000 and there is still \$25,000 of the NOL left to carryover to the 1991 return.

3. In addition to the above modifications, since the carryback of a NOLD results in a change in federal taxable income, the minimum tax and corporate income tax must be recomputed to determine which tax is applicable to the telecommunications company. See § 3 B.

§ 6. Telecommunications company income tax credit.

A. In general.

If a telecommunications company is subject to the corporation income tax under § 58.1-400 of the Code of Virginia because its corporation income tax exceeds the minimum tax under § 58.1-400.1 of the Code of Virginia, the telecommunications company may be eligible for a credit against the corporation income tax. This credit is only applicable when the corporation income tax exceeds 1.3% of the gross receipts of the company. The amount of credit available against the corporation income tax will be phased out over a ten-year period from 1989 through 1998.

B. Determination of gross receipt.

For each taxable year, the telecommunications company income tax credit is computed on the gross receipts of such company for the calendar year which ends during the taxable year.

If a company files an income tax return for a period of less than 12 months, the telecommunications company income tax credit is computed with reference to the gross receipts for the calendar year which ends during the taxable period. If no calendar year ends during the taxable period, the telecommunications company income tax credit is computed with reference to the gross receipts of the most recent calendar year which ended before the taxable period.

For taxable years that begin before January 1, 1989, include January 1, 1989, and end before December 31, 1989, the credit is computed with reference to the gross receipts received during calendar year 1988 (prorated by the number of months in the taxable period divided by 12). The credit rate applicable to taxable year 1989 shall be used.

EXAMPLE 1: If Company A's taxable year begins on April 1, 1990, and ends March 30, 1991, the

telecommunication company income tax credit for taxable year 1990 would be computed on the gross receipts for calendar year 1990.

EXAMPLE 2: Company B, a calendar year filer, goes out of business on April 30, 1992. For federal income tax purposes, its taxable year begins on January 1, 1992, and ends on April 30, 1992. Its telecommunications company income tax credit for taxable year 1992 would be computed on the gross receipts for calendar year 1991.

C. Credit amount.

As set forth in § 58.1-434 of the Code of Virginia, the following credit is allowable to telecommunications companies to offset the tax imposed under § 58.1-400 of the Code of Virginia:

Taxable Year: 1989

Tax Credit: 80% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1990

Tax Credit: 70% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1991

Tax Credit: 60% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1992 and 1993

Tax Credit: 50% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1994

Tax Credit: 40% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1995 and 1996

Tax Credit: 30% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1997

Tax Credit: 20% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1998

Tax Credit: 10% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

EXAMPLE: For taxable year 1991, Telecommunications Company (TC) files its federal income tax return on a fiscal year basis for the year beginning July 1, 1991, and ending June 30, 1992. For calendar year 1991 TC has gross receipts of \$100,000. Its corporate income tax for taxable year 1991 is \$1,400 and its minimum tax is \$1,000 (\$100,000 X 1.0%). Since its corporate income tax exceeds its minimum tax, TC is subject to the corporate income tax. Because TC is subject to the corporate income tax, not the minimum tax, and because its corporate income tax exceeds 1.3% of its gross receipts, TC is eligible to

claim a credit equal to 60% of the amount by which the corporate income tax exceeds 1.3% of gross receipts.

The credit and tax due are computed as follows:

Corporate Income Tax	\$1,400
1.3% of Gross Receipts	<u>1,300</u>
Credit Base	100
Credit Percentage for 1991	<u>X 60%</u>

Corporate Income Tax Credit \$ 60

Corporate Tax Before Credit \$1,400
Less Credit - 60

Net Tax Due \$1,340

D. Short taxable periods.

If the income tax return is filed for a taxable period of less than 12 months, the gross receipts used to compute the credit shall be prorated by the number of months in the taxable period divided by 12.

EXAMPLE: Telecommunications Company (TC) goes out of business on December 31, 1991, and files a short taxable period return for the period beginning July 1, 1991, and ending December 31, 1991. For calendar year 1991 TC has gross receipts of \$100,000. Its corporate income tax for taxable year 1991 is \$700 and its minimum is \$500 (\$100,000 X 1.0% X 6/12). Since its corporate tax exceeds its minimum tax, TC is subject to the corporate income tax. Because TC is subject to the corporate income tax, not the minimum tax, and because its corporate income tax exceeds 1.3% of its gross receipts, TC is eligible to claim a credit equal to 60% of the amount by which the corporate income tax exceeds 1.3% of gross receipts.

The credit and tax due are computed as follows:

Corporate Income Tax	\$700
1.3% of Gross Receipts*	<u>650</u>
Credit Base	50
Credit Percentage for 1991	<u>X 60%</u>

Allowable Credit \$ 30

Corporate Tax Before Credit \$700
Less Credit - 30

Net Tax Due \$670

* \$100,000 X 6/12 X 1.3% = \$650

E. Limitation of credit.

1. If a company is subject to the minimum tax in a taxable year, it will not be eligible for a telecommunications company income tax credit in such year.

2. The amount of credit allowed in any taxable year may not exceed the actual income tax liability for such year. Any excess credit for a taxable year may not be carried over to another taxable year to be used to offset the tax liability in another year.

3. This credit shall be applied against the income tax liability prior to any other credits which may be applicable against the corporation income tax.

§ 7. Separate, combined or consolidated returns of affiliated corporations.

A. Generally.

The requirements set forth under § 58.1-442 of the Code of Virginia and VR 630-3-442 regarding the income tax filing status of affiliated corporations are applicable to telecommunications companies. Accordingly, if two or more affiliates of a telecommunications company previously elected to file separate returns or a consolidated or combined return, the telecommunications company must conform to the filing election previously made by other members of their affiliated group. If the first year in which a telecommunications company is subject to taxation by the Department of Taxation is the first year two or more members of an affiliated group of corporations, including the telecommunications company, are required to file Virginia income tax returns, the group may elect to file separate returns, a consolidated return or a combined return. All returns for subsequent years must be filed on the same basis unless permission to change is granted by the Department of Taxation.

B. Special computations required for consolidated and combined returns.

When affiliated corporations file a consolidated or a combined income tax return the losses of one corporation may be used to offset the income of another corporation. The tax paid by the affiliated group on a consolidated or combined return is the net amount of tax due from the affiliated group after losses and gains are netted. Because of the minimum tax and tax credit requirements applicable only to telecommunications companies, a special computation is required to determine the portion of the tax of the affiliated group that is attributable to the telecommunications company or upon the amount of gross receipts of a telecommunications company will be acted upon by the Department of Taxation.

1. **Determination of separate tax.** To determine the portion of the tax liability shown on the consolidated or combined return that is attributable to the telecommunications company, each corporation included in the consolidated or combined filing must recompute its tax liability as if it was filing a separate return. The separate income tax liability of the telecommunications company is compared to the total tax liability shown on the consolidated or combined return.

Final Regulations

The lesser amount is deemed to be the income tax imposed by § 58.1-400 of the Code of Virginia on the telecommunications company.

2. **Minimum tax.** If this amount is less than the minimum tax of the telecommunications company, as computed in § 4, the company is subject to the minimum tax in lieu of the tax imposed under § 58.1-400 of the Code of Virginia. The portion of the tax imposed under § 58.1-400 of the Code of Virginia paid by the affiliated group shall be credited toward the company's minimum tax liability.

If the telecommunications company's portion of the consolidated or combined tax imposed under § 58.1-400 of the Code of Virginia (as computed above) exceeds the minimum tax of the telecommunications company, the company is not required to pay any amount of minimum tax.

3. **Corporation income tax credit.** If the telecommunications company's portion of the affiliated group's corporate income tax exceeds the minimum tax, the affiliated group may be allowed a credit against its tax. If the telecommunications company's [portion of the consolidated or combined income separate] tax, as computed above exceeds 1.3% of the gross receipts of the company, the affiliated group is eligible to claim a credit against the portion of the consolidated or combined tax attributable to the telecommunications company. In no case shall the amount of credit claimed exceed the lesser of the consolidated or combined income tax shown on the return or the amount of income tax deemed to be imposed on the telecommunications company.

EXAMPLE 1. In taxable year 1992 Telecommunications Company (TC) files a calendar year consolidated income tax return with three other affiliated corporations: A, B, and C. TC's calendar year 1992 gross receipts are \$200,000 and its minimum tax is equal to \$1,800 (\$200,000 X .9%). The corporate income tax return shows a consolidated taxable income of \$ 33,333 and the tax due on the consolidated return is \$2,000. TC must make the following computations to determine if it is subject to the minimum tax.

Step 1: Determine TC's Portion of the Consolidated Tax.

Company	Taxable Income if Companies Separately File	Income Tax if Companies Separately File
A	(100,000)	0
B	(11,667)	0
C	125,000	7,500
TC	20,000	<u>1,200</u>
Total	33,333	8,700

TC's Portion of the Consolidated Tax = \$1,200. The lesser of TC's separate tax (\$1,200) or the consolidated tax (\$2,000).

Step 2: Determine Whether the Minimum Tax is Due.

Since the minimum tax of \$1,800 exceeds TC's portion of the affiliated corporate income tax (\$1,200), the minimum tax is applicable.

Step 3: Compute Additional Tax Due.

Minimum tax	\$1,800
Less TC's portion of consolidated tax	<u>-1,200</u>
Additional Tax Due	\$ 600

EXAMPLE 2. In taxable year 1992 Telecommunications Company (TC) files a calendar year consolidated income tax return with three other affiliated corporations: A, B, and C. TC's calendar year 1992 gross receipts are \$200,000 and its minimum tax is equal to \$1,800 (\$200,000 X .9%). The corporate income tax return shows a consolidated taxable income of \$33,333 and the tax due on the consolidated return is \$2,000. TC must make the following computations to determine if it is subject to the minimum tax.

Step 1: Determine TC's Portion of the Consolidated Tax.

Company	Taxable Income if Companies Separately File	Income Tax if Companies Separately File
A	(50,000)	0
B	(11,667)	0
C	55,000	3,300
TC	40,000	<u>2,400</u>
Total	33,333	5,700

TC's Portion of the Consolidated Tax = \$2,000. The lesser of TC's separate tax (\$2,400) or the consolidated tax (\$2,000).

Step 2: Determine Whether the Minimum Tax is Due.

Since the minimum tax of \$1,800 is less than TC's portion of the affiliated corporate income tax (\$2,000), the minimum tax is not applicable and TC is subject to the income tax instead.

Step 3: Determine if Income Tax Credit is Allowable.

Gross Receipts	\$200,000
	<u>X 1.3%</u>
1.3% of Gross Receipts	\$ 2,600

Since TC's [portion of the consolidated tax (\$2,000) separate tax (\$2,400)] is less than 1.3% of gross receipts, no credit is applicable.

EXAMPLE 3. In taxable year 1992 Telecommunications Company (TC) files a calendar year consolidated income tax return with three other affiliated corporations: A, B and C. TC's calendar year 1992 gross receipts are \$200,000 and its minimum tax is equal to \$1,800 (\$200,000

Final Regulations

other person for whom the income retains its character, the telecommunications company will be deemed to have paid corporate income tax for purposes of computing the minimum tax and credit under subsection B.

B. Computation of minimum tax and credit.

A noncorporate telecommunications company must calculate its minimum tax liability as provided in § 4. If the income of the noncorporate telecommunications company is deemed to be subject to Virginia income tax under subsection A, the minimum tax liability shall be compared to the income tax liability of the entity computed as if it were a corporation. The minimum tax, income tax, and credit provisions shall be applied as follows:

1. **Minimum tax.** If the income of the entity is not deemed to be subject to Virginia income tax under subsection A, the entity shall pay the minimum tax. If the income of the entity is deemed to be subject to Virginia income tax under subsection A, and if the minimum tax exceeds the entity's income tax computed as if it were a corporation, the entity must pay an amount equal to the difference between the minimum tax and the corporate income tax.

2. **Income tax.** If the income of the entity is deemed to be subject to Virginia income tax under subsection A, and if the minimum tax does not exceed the entity's income tax computed as if it were a corporation, the entity shall not be required to pay the corporate income tax under § 58.1-400 merely because it computes such a tax for comparison with the minimum tax liability.

3. **Telecommunications company income tax credit.** If the income of the entity is deemed to be subject to Virginia income tax under subsection A, and if the entity's income tax computed as if it were a corporation exceeds 1.3% of its gross receipts, then the entity is eligible for a credit under § 58.1-434. The credit shall be computed by the entity as if it were a corporation but shall be claimed by the entity, partner, or other person, as the case may be, in proportion to the portion of the entity's income included in each taxpayer's taxable income. In no case shall the credit allowable exceed the income tax liability of the entity, partner, or other person.

C. Return preparation.

If the income of a telecommunications company is deemed to be subject to Virginia income tax under the provisions of subsection A, it must file a return [, marked "RETURN BY NONCORPORATE TELECOMMUNICATIONS COMPANY,"] each taxable year which contains the following information:

1. The gross receipts for such taxable year;

2. The total amount of minimum tax for such taxable year;

3. The taxable income and income tax computed as if it were a corporation subject to the corporate income tax under § 58.1-400 of the Code of Virginia;

4. The amount of the telecommunications company's income tax credit; and

5. A schedule which includes the name, address, tax identification number and proportionate share of the telecommunications company's income and credit taxable to each entity, partner or other person under Virginia law.

Example 1. Telecommunications Company (TC) operates as a partnership with two corporate partners. TC is a calendar year filer for federal income tax purposes. For calendar year 1990, TC has \$200,000 in gross receipts. Computing its taxable income as if a corporation, TC has a Virginia taxable income equal to \$35,000. TC's minimum tax liability is \$2,400 (\$200,000 X 1.2%) and its Virginia income tax is \$2,100 (\$35,000 X 6.0%). Since TC's minimum tax liability exceeds its income tax liability, it is subject to the minimum tax and must pay \$300 (\$2,400 - 2,100). Because TC is a partnership, its income tax liability is deemed to be paid by its partners.

Example 2. Telecommunications Company (TC) operates as a partnership with two corporate partners. Corp A owns 60% of TC and Corp B owns 40% of TC. TC is a calendar year filer for federal income tax purposes. For calendar year 1990, TC has \$200,000 in gross receipts. Computing its taxable income as if a corporation, TC has a Virginia taxable income equal to \$50,000. TC's minimum tax liability is \$2,400 (\$200,000 X 1.2%) and its Virginia income tax is \$3,000 (\$50,000 X 6.0%). Since TC's income tax liability exceeds its minimum tax liability, it must determine the amount of income tax credit that would be allowable against the tax, if it paid the tax.

The credit is computed as follows:

Corporate Income Tax (deemed paid by partners)	\$3,000
1.3% of Gross Receipts	2,600
Credit Base	400
Credit Percentage for 1990	X 70%
Corporate Income Tax Credit	\$ 280

TC would pay no tax and Corp A would be allowed a credit of \$168 (\$280 X 60%) against its separate tax liability and Corp B would be allowed a credit of \$112 (\$280 X 40%) against its separate tax liability.

§ 11. Administrative appeals.

A. State Corporation Commission.

As set forth under § 2 of this regulation, the SCC will make all determinations regarding a company's status as a telecommunications company and will determine and

certify the amount of gross receipts, as defined in § 58.1-400.1 of the Code of Virginia, to the department annually.

Telecommunications companies may petition the SCC for review and correction of the company's status or the amount of gross receipts certified. The petition should be in compliance with the Rules of Practice and Procedures of the SCC.

B. Department of Taxation.

Company status or gross receipts. Any application for correction of an erroneous assessment pursuant to § 58.1-1821 of the Code of Virginia that is contingent upon the status of a company as a telecommunications company or upon the amount of gross receipts of a telecommunications company, will be held without action until a final determination has been made by the SCC on a petition filed pursuant to the Rules of Practice and Procedures of the SCC.

Any application pursuant to § 58.1-1821 filed with the Department of Taxation that is not contingent upon the status of a company as a

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-40-01. Infectious Waste Management Regulations.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Effective Date: May 2, 1990

Summary:

The regulations are constructed in 10 parts. In Part I, the definitions to be used in the succeeding parts are listed. Part II states the purpose and authority for the regulations. The relationship to other state and local rules is established. Where there is no mutually exclusive conflict, both infectious waste management regulations and the other rules must be obeyed. The regulations will be effective on May 2, 1990.

Part III is devoted to defining infectious waste. A general descriptive definition of infectious waste is combined with a specific list of controlled infectious wastes. A list of activities are exempted from all or part of the regulations. A list of solid wastes that are specifically excluded from consideration as infectious wastes, and a list of wastes that are infectious wastes are specifically excluded from application of the regulations.

Permits for storage, treatment and disposal of infectious wastes are required in Part IV. Qualifying on-site facilities may be considered to have a permit

(by rule) without formal application procedures after their operators make a notification to the Department of Waste Management of their identity. Detailed rules for packaging the waste are listed. For waste to be transported, additional rules describe boxing and labelling standards. Minimum standards for spill management, financial assurance, record keeping and closure are established. Infectious waste must be incinerated, sterilized with steam or disposed of in a sewer system.

Part V describes requirements for storage facilities, including refrigeration for periods longer than 72 hours and freezing for periods over seven days. Part VI describes requirements for transportation. Transporters are required to register with the department and to placard vehicles.

Part VII contains operational standards for incineration facilities. Part VIII contains operational standards for sterilization facilities. Part IX sets out the procedures for acquiring and holding a permit to store, treat or dispose of infectious waste. A detailed permit application submittal is specified. Part X provides procedures for acquiring and holding a special variance or exemption from the regulations. The executive director is empowered to grant variances and exemptions. The public may also petition the executive director to initiate special rulemaking.

The following substantive changes were made as a result of comments received from the public:

1. Previous prohibition on recycling of infectious waste was changed in § 3.1 C 1 to a conditioned tolerance of such recycling.
2. Subdivisions 5 and 6 of § 3.2 were rewritten to establish an exclusion for small quantity generators from the intrusive aspects of the regulations, provided the infectious waste from these generators is packaged, labelled, transported, treated and disposed in the same manner as infectious waste from larger generators as it leaves and after it leaves the generation site.
3. A provision was added to § 3.3 B 3 to require "household waste" generators to place medically related sharps in puncture resistant containers prior to mixing in with their regular trash. In subsection C references to quarantine waste were deleted since this was removed as a controlled infectious waste. The exclusion of small amounts of blood or body fluids was modified to include unabsorbed blood or body fluids, exclude sharps and exclude free-flowing or unabsorbed liquid.
4. Limitation of permit by rule qualification to service in a 10-mile radius was deleted in § 4.1 B 3.

Final Regulations

5. A requirement was added to § 4.4 to require spill cleanup crews to leave the area for a short period following disinfectant spraying.

VR 672-40-01. Infectious Waste Management Regulations.

PART I. DEFINITIONS.

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

"Abandoned materials" means any material that is:

1. Disposed of;
2. Burned or incinerated; or
3. Accumulated, stored or treated before or in lieu of being abandoned by being disposed of, burned or incinerated.

"Act" or *"regulations"* means the federal or state law or regulation last cited in the context unless otherwise indicated.

"Active life" of a facility means the period from the initial receipt of waste at the facility until the executive director receives certification of final closure.

"Approved sanitary sewer system" means a network of sewers serving a facility which has been approved in writing by the Virginia Department of Health, including affiliated local health departments. Such sewer systems may be approved septic tank/drainfield systems and on-site treatment systems; or they may be a part of a collection system served by a NPDES permitted treatment works.

"Ash" means the residual waste material produced from an incineration process or any combustion.

"Authorized representative" means the manager, superintendent, or person of equivalent responsibility responsible for the overall operation of a facility or an operational unit (i.e., part of a facility).

"Autoclave tape" means tape which changes color or becomes striped when subjected to temperatures that will provide sterilization of materials during treatment in an autoclave or similar device.

"Board" means the Virginia Waste Management Board.

"Certification" means statement of professional opinion based on knowledge and belief.

"Clean Air Act" means 42 USC 1857 et seq. of 1963 as amended by PL 89-272, PL 89-675, PL 90-148, PL 91-604, PL 92-157, PL 93-319, PL 95-95 and PL 95-190.

"Closure" means the act of securing a waste management facility pursuant to the requirements of these regulations.

"Closure plan" means the plan for closure prepared in accordance with the requirements of these regulations.

"Commonwealth" means the Commonwealth of Virginia.

"Compliance schedule" means a time schedule of remedial measures to be employed on a solid waste management facility which will ultimately upgrade it to conform to these regulations.

"Container" means any portable enclosure in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activity; or the transfer of disease organisms, blood or other matter that may contain disease organisms from one material or object to another.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in the event of a fire, explosion, or release of waste or waste constituents which could threaten human health or the environment.

"CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act), Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576, 33 USC 1251 et seq.

"Department" means the Virginia Department of Waste Management.

"Discarded material" means a material which is abandoned, recycled, or considered inherently waste-like (as determined by the Executive Director on a case by case evaluation).

"Discharge" or *"waste discharge"* means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of waste into or on any land or state waters.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Disposal facility" means a facility or part of a facility at which waste is intentionally placed into or on any land or water, and at which the waste will remain after closure.

"Domestic sewage" means untreated sanitary wastes

that pass through a sewer system.

"Draft permit" means a document prepared under § 9.18 of these regulations indicating the executive director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit.

"Emergency permit" means a permit issued where an imminent and substantial endangerment to human health or the environment is determined to exist by the executive director.

"EPA" means the U.S. Environmental Protection Agency.

"Etiologic agents" means organisms defined to be etiologic agents in Title 49 of the U.S. Code of Federal Regulations at § 173.386.

"Executive director" means the executive director of the Department of Waste Management.

"Facility (activity)" means waste management facility as defined.

"Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency, or establishment of the federal government including any government corporation and the Government Printing Office.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

"Generator" means any person, by site location, whose act or process produces waste identified or listed in Part III of these regulations or whose act first causes a waste to become subject to these regulations.

"Hazardous material" means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated under 49 CFR 171 and 173.

"Hazardous waste" means any solid waste defined as a "hazardous waste" by the Virginia Hazardous Waste Management Regulations.

"Incinerator" means any enclosed device using controlled flame combustion.

"Infectious waste" means solid wastes defined to be infectious wastes in Part III of these regulations.

"Inherently waste like" means having one or more characteristics that are associated with waste materials and determined by the executive director to be a solid waste.

"In operation" means facilities that are treating, storing, or disposing of waste.

"Landfill" means a disposal facility or part of a facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

"Mode (of transportation)" means any of the following transportation methods: rail, highway, air, or water.

"Monitoring" means all procedures used to systematically inspect and collect data on operational parameters of the facility or on the quality of the air, ground water, surface water, or soils.

"Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and used in transportation or designed for such use.

"NPDES (National Pollutant Discharge Elimination System)" means the national program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits pursuant to §§ 402, 318, and 405 of CWA. The term includes any state or interstate program which has been approved by the administrator.

"Off-site" means any site that does not meet the definition of on-site as defined in this part.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

"Operator" means the person responsible for the overall operation of a waste management facility.

"Owner" means the person who owns a waste management facility or part of a waste management facility.

"Package" or "outside package" means a packaging plus its contents.

"Packaging" means the assembly of one or more containers and any other components necessary to assure compliance with minimum packaging requirements under VRGTHM and these regulations.

"Pathological waste" means a solid waste that is human tissues, organs, body parts, fetuses, placentas, effluences or similar material; animal tissue, organs, body parts, fetuses, placentas, effluence or similar material from animals exposed to human pathogens for the purposes of

Final Regulations

testing or experimentation.

"Permit" means a control document issued by the Commonwealth pursuant to these regulations. The term "permit" includes any functional equivalent such as an authorization, license, or permit by rule.

"Permit by rule" means provisions of these regulations stating that a facility or activity is deemed to have a permit if it meets the requirements of the provision.

"Permitted waste management facility (or permitted facility)" means a waste treatment, storage, or disposal facility that has received a permit in accordance with the requirements of the department.

"Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, or federal government agency.

"Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a waste management facility, and whose actions or failure to act may result in noncompliance with the requirements of these regulations.

"Physical construction" means excavation, movement of earth, erection of forms or structures, the purchase of equipment, or any other activity involving the actual preparation of the waste management facility.

"Principal corporate officer" means either:

1. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy, or decision making function for the corporation, or
2. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

"Principal executive officer" means for the purposes of these regulations, a principal executive officer is defined as:

1. For a federal agency:
 - a. The chief executive officer of the agency; or
 - b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

2. For a state agency: The chief executive officer of a department, board, commission, hospital, educational institution, or an authority.

3. For a municipality: The chief executive officer of a county, city, or town.

"Processing" means preparation, treatment, or conversion of waste by a series of actions, changes, or functions that bring about a decided result.

"Publicly owned treatment works (POTW)" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality as defined by § 502(4) of the CWA.

"Putrescible waste" means solid waste which contains material capable of being decomposed by microorganisms.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Recycled material" means a material which is reused or reclaimed.

"Regulation" means the control, direction and governance of solid and waste activities by means of the adoption and enforcement of laws, ordinances, rules and regulations.

"Sanitary sewer system" means an approved sanitary sewer system.

"Secondary container" means a storage device into which a container can be placed for the purpose of containing any leakage of waste from such emplaced container.

"Section" means a subpart of these regulations and when referred to all portions of that part apply.

"Sharps" means needles, scalpels, knives, broken glass, syringes, pasteur pipettes and similar items having a point or sharp edge.

"Shipment" means the movement or quantity conveyed by a transporter of a waste between a generator and a designated facility or a subsequent transporter.

"Signature" means the name of a person written with his own hand.

"Site" means the land or water area upon which a facility or activity is physically located or conducted, including but not limited to adjacent land used for utility systems such as repair, storage, shipping, or processing areas, or other areas incident to the controlled facility or activity.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

"Solid waste" means any discarded material that is not exempted by these regulations elsewhere or that is not excluded by variance granted by the executive director.

"Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid wastes whether or not such facility is associated with facilities generating such wastes or otherwise.

"Spill" means any accidental or unpermitted spilling, leaking, pumping, pouring, emitting, or dumping of wastes or materials which, when spilled, become wastes.

"Storage" means the holding, including during transportation, of waste, at the end of which the waste is treated, disposed, or stored elsewhere.

"SW-846" means test methods for evaluating solid waste, physical/chemical methods, EPA publication SW-846.

"Training" means formal instruction, supplementing an employee's existing job knowledge, designed to protect human health and the environment via attendance and successful completion of a course of instruction in waste management procedures, including contingency plan implementation, relevant to those operations connected with the employee's position at the facility.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of waste are held during the normal course of transportation.

"Transportation" means the movement of waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of waste by air, rail, highway, or water.

"Transport vehicle" means a motor vehicle, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste, as to recover energy or material resources from such wastes; so as to render such waste safe for transport or disposal, amenable for recovery, amenable for storage or reduced in volume.

"Vector" means a living animal, insect or other arthropod which transmits an infectious disease from one organism to another.

"VRGTHM" means Virginia Regulations Governing the Transportation of Hazardous Materials promulgated by the Department of Waste Management Board as authorized by §§ 10.1-1450 through 10.1-1454 of the Code of Virginia.

"Waste generation" means the act or process of producing a waste.

"Waste management" means the systematic control of the generation, collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of wastes.

"Waste management facility" means all contiguous land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of waste.

"Waste Management Unit" means any unit at a treatment, storage or disposal facility which is seeking or possesses a permit, which has received solid waste (as defined in these regulations) at any time, including units that are not currently active.

PART II. LEGISLATIVE AUTHORITY AND GENERAL INFORMATION.

§ 2.1. Authority for regulations.

These regulations are promulgated pursuant to the Virginia Waste Management Act, Chapter 14, Title 10.1 of the Code of Virginia (hereinafter Code) which authorizes the Virginia Waste Management Board to promulgate and enforce such regulations as may be necessary to carry out its duties and powers and the intent of that chapter the Virginia Waste Management Act and the federal acts.

§ 2.2. Purpose of regulations.

The purpose of these regulations is to establish standards and procedures pertaining to infectious waste management in this Commonwealth; in order to protect the public health and public safety, and to enhance the environment and natural resources.

§ 2.3. Administration of regulations.

A. The Virginia Waste Management Board promulgates and enforces regulations that it deems necessary to protect the public health and safety, the environment, and natural resources.

B. The executive director is authorized to issue orders to require any person to comply with these regulations or to require such steps as he deems necessary to bring about compliance. Orders shall be issued in writing

Final Regulations

through certified mail and shall be issued in accordance with provisions of the Administrative Process Act, Title 9, Chapter 1.1:1, Code of Virginia. The executive director is directed to administer these regulations in accordance with the Virginia Waste Management Act.

§ 2.4. Applicability of regulations.

A. These regulations apply to all persons who generate infectious waste; own or operate infectious waste management facilities or allow infectious waste management facilities to be operated on their property in this Commonwealth; to those who intend to engage in these activities and to all persons who manage infectious wastes; except those specifically exempted or excluded elsewhere in these regulations.

B. All existing infectious waste management facilities, including those operating under a permit on the effective date of these regulations, shall comply with these regulations. If the executive director determines that an existing permit is in conflict with these regulations, the permit will be amended to fully comply with these regulations.

§ 2.5. Severability.

A. If any provision or part of these regulations is held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of these regulations and their application.

B. These regulations supersede and replace all previous regulations of the Department of Waste Management to the extent that those prior regulations conflict with the regulations presented herein. Where there does not exist a conflict between the prior regulations and those presented herein, no replacement shall be deemed to occur and the prior regulations shall remain.

C. These regulations shall remain in effect until the Virginia Waste Management Board, in subsequent formal action, shall amend, rescind or otherwise alter them. Such an action will be specific in its detail and cite these regulations by their title. Where there appears to be a conflict with these regulations and regulations adopted at a future date, and such future regulations do not specifically clarify these regulations, these regulations shall be superior except for the exemption of hazardous waste noted in Part III.

D. These regulations are completely separate from all federal or local governmental regulations.

§ 2.6. Relationship to other bodies of regulation.

A. Solid Waste Management Regulations.

These regulations are solid waste management regulations that address special needs for infectious waste

management. Any infectious waste management facility shall also conform to general solid waste management regulations issued by the department and any special solid waste management regulations such as those defining financial assurance requirements. If there is a mutually exclusive conflict between the details of regulations herein and the others, these regulations are superior.

B. Hazardous Waste Management Regulations.

Any infectious waste management facility shall also comply with any applicable sections of the hazardous waste management regulations issued by the department. If there is a mutually exclusive conflict between the details of regulations herein and the hazardous waste management regulations, the later regulations are superior.

C. Hazardous Materials Transportation Regulations.

Intrastate shipment of hazardous materials are subject to regulations of the department. If there is a mutually exclusive conflict between the details of regulations herein and the hazardous materials transportation regulations, the later are superior.

D. Regulations of other agencies.

If there is a mutually exclusive conflict between the regulations herein and adopted regulations of another agency of the Commonwealth, the provisions of these regulations are set aside to the extent necessary to allow compliance with the regulations of the other agency.

E. Local government ordinances.

The department will notify local governing bodies of disposal facilities for infectious waste management that are proposed within their jurisdiction. The department is prevented from issuing permits for facilities for which it has not received a notice or waiver from the local governing body described in Title 10.1, § 10.1-1408.1 of the Code of Virginia. In general, local governing bodies operate under varying powers and adopt ordinances they deem appropriate. Nothing herein either precludes or enables a local governing body to adopt ordinances. While the department has the previously noted duty to defer to local governing body authority related to the zoning of a site, its technical and administrative regulations set out herein are completely independent of local government ordinances. Compliance with one body of regulation does not insure compliance with the other; and, normally, both bodies of regulation must be complied with fully. If compliance with any local government's ordinance would prevent compliance with a regulation of the Commonwealth contained herein, that local government's ordinance is preempted to the extent, and only to the extent, that the Commonwealth's regulations can be complied with fully.

§ 2.7. Effective date of regulations.

The effective date of these regulations is [~~October 1,~~
1989 May 2, 1990] .

PART III. IDENTIFICATION AND LISTING OF INFECTIOUS WASTES.

§ 3.1. General.

A. Purpose and scope.

1. Wastes identified in Part III are infectious wastes which are subject to Virginia Infectious Waste Management Regulations.

2. The basic definition of solid waste appears in Part I along with other pertinent definitions and shall be referred to for the exact meaning of the terms used. Additional detailed descriptions of solid wastes, exclusions and listings required to arrive at the proper classification of wastes are the subject of this part.

3. Inherently waste-like materials. The executive director may rule that a specific material is inherently waste-like for the purposes of these regulations. Any person may petition the executive director for a ruling or the executive director may issue a rule without receiving a petition. In making a ruling, the executive director will consider the generation of the material, its use and the possible impact of the ruling on health and the environment.

B. Materials rendered noninfectious.

Wastes that were once infectious and were managed in accord with these regulations; and which, because of treatment, are exempted under § 3.2 or are excluded under § 3.3 are no longer infectious wastes and shall be managed in accordance with such other regulations of the department that apply.

1. Packaging. Exempt or excluded waste shall not be packaged as infectious waste or, if the waste was once infectious, it shall bear a label clearly indicating that it is not infectious and an explanation why it is no longer infectious. Waste packaged as infectious waste and not in compliance with this section are infectious waste.

2. Recordkeeping. If the waste is no longer infectious because of treatment, the generator or permitted facility shall maintain a record of the treatment for three years afterward to include the date and type of treatment, type and amount of waste treated, and the individual operating the treatment. Records for on-site treatment and shipping papers [from commercial carriers] for off-site treatment shall be maintained by the generator. Records for off-site treatment and shipping papers for off-site treatment shall be maintained by all permitted facilities. Generators or

permitted facilities with more than one unit may maintain a centralized system of recordkeeping. All records shall be available for review upon request.

C. Recycled materials.

1. Infectious wastes shall not be recycled [; however, wastes that have been sterilized or incinerated in accord with these regulations and are no longer infectious waste may be reclaimed] .

2. Bed linen, instruments, equipment and other materials that are routinely reused for their original purpose are not subject to these regulations until they are discarded and are a solid waste. Handling of such reusable materials should follow the Center For Disease Control's "Guideline For Hospital Environmental Control: Cleaning, Disinfection, and Sterilization of Hospital Equipment," and "Guideline for Hospital Environmental Control: Laundry Services."

D. Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation.

Respondents in actions to enforce these regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, shall demonstrate that they meet the terms of the exclusion or exemption. In doing so, they shall provide appropriate documentation to demonstrate that the material is not a waste, or is exempt from regulation.

§ 3.2. Exemptions to the regulations.

Exemptions to these regulations include:

1. Composting of sewage sludge at the sewage treatment plant of generation and not involving other solid wastes.

2. Land application of wastes regulated by the State Board of Health, the State Water Control Board, or any other state agency with such authority.

3. Wastewater treatment or pretreatment facilities permitted by the State Water Control Board by a NPDES permit.

4. Management of hazardous waste as defined and controlled by the Virginia Hazardous Waste Management Regulations to the extent that any requirement of those regulations is in conflict with regulations herein.

[5. Health care professionals may accumulate and transport infectious waste generated in the provision of home health care services; if the total accumulated waste amount is less than 32 gallons, the waste is packaged and labelled in accord with § 4.3, the waste is delivered within 24 hours to permitted infectious

Final Regulations

waste management facility, and security and sanitary conditions are maintained in the transport vehicle. Such wastes are exempted from compliance with Part VI, Part IX and § 4.3.B.4 of these regulations.

6. Health care professionals may accumulate and transport infectious waste generated in the provision of health care services in their own office; if the total accumulated waste amount is less than 32 gallons, the waste is packaged and labelled in accord with § 4.3, the waste is delivered within 24 hours to permitted infectious waste management facility, and security and sanitary conditions are maintained in the transport vehicle. Such wastes are exempted from compliance with Part VI, Part IX and § 4.3.B.4 of these regulations.]

[5. These regulations shall not apply to health care professionals who generate infectious waste in the provision of health care services in their own office or in the private home of a patient, provided the waste is disposed of as authorized below:

a. With respect to infectious waste other than sharps, the office or the patient's home accumulates no more than 64 gallons, the waste is packaged and labeled in accord with § 4.3, and the waste is delivered within 14 days to a permitted infectious waste treatment or storage facility.

b. With respect to infectious waste in the form of sharps, the sharps are packaged in rigid, leak-proof and puncture-resistant containers and labeled in accord with § 4.3, and before filled to capacity, such containers are delivered to a permitted infectious waste treatment or storage facility. Sharp containers to be sterilized shall be orange in color and marked with autoclave tape; all other sharps containers shall be red in color. Where orange colored sharps containers are unavailable, boxes of other colors may be used if a large orange label is affixed indicating it is for steam sterilization.

c. The health care professional transports or arranges for the transportation of the infectious waste:

(1) Directly or by an employee, or

(2) By a transporter registered as such with the Department of Waste Management.

d. Notwithstanding any provisions to the contrary in these regulations, waste transported pursuant to § 3.2 5a(1) shall be exempt from § 4.3 B 4 of these regulations.]

§ 3.3. Exclusions.

A. The following materials are not solid wastes for the purposes of this Part III:

1. Domestic sewage, including wastes that are not stored and are disposed of in a sanitary sewer system with or without grinding;

2. Any mixture of domestic sewage and other wastes that pass through a sewer system to a wastewater treatment works permitted by the State Water Control Board or the State Department of Health;

3. Human remains under the control of a licensed physician or dentist, when the remains are being used or examined for medical purposes and are not abandoned materials; and

4. Human remains properly interred in a cemetery or in preparation by a licensed mortician for such interment or cremation.

B. The following solid wastes are not infectious wastes:

1. Wastes contaminated only with organisms which are not generally recognized as pathogenic to humans, even if those organisms cause disease in other animals or plants; and which are managed in complete accord with all regulations of the U.S. Department of Agriculture and the Virginia Department of Agriculture and Consumer Services.

2. Meat or other food items being discarded because of spoilage or contamination, and not included in § 3.5.

3. Garbage, trash and sanitary waste from septic tanks [from ,] single or multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campground, picnic grounds and day-use recreation areas, except for waste generated by the provision of professional health care services on the premises [, shall be exempt from these regulations, provided that all medical sharps shall be placed in a container with a high degree of puncture-resistance before being mixed with other wastes or disposed] .

C. The following infectious wastes are not subject to the requirements of these regulations:

1. Used products for personal hygiene, such as diapers, facial tissues and sanitary napkins [; unless the waste is quarantine waste] .

2. [Absorbent] Material, not including [quarantine wastes sharps [, containing [extremely] small amounts of blood or body fluids, and no free flowing or unabsorbed liquid.

§ 3.4. Characteristics of infectious waste.

A. Any solid waste, as defined in these regulations and which is not excluded from regulation is an infectious waste if it is [identified by the health care professional in charge as] capable of producing an infectious disease in

humans, [or if it] is one of the controlled infectious wastes listed in § 3.5 [or is identified as infectious by a licensed physician or registered nurse]. A waste shall be considered to be capable of producing an infectious disease if it has been or [may is likely to] have been contaminated by an organism [that may likely to] be pathogenic to [healthy] humans, such organism is not routinely and freely available in the community and if such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease.

B. If the exact cause of a [disease patient's illness] is unknown, but the health care professional in charge suspects the presence of a [pathogen contagious disease] is the cause, wastes shall be managed [the same as if the pathogen were identified in accordance with the specific pathogen suspected] .

§ 3.5. Lists of controlled infectious wastes.

In addition to wastes described by the characteristics set forth in § 3.4, each waste or waste stream on the following lists is subject to these regulations.

[A. Quarantine wastes.

Waste resulting from the housing, treatment and management of a patient who is segregated and whose visitation is restricted because he is believed to have a highly contagious disease is infectious waste, including protective clothing and other items resulting from visitation to the patient. The federal Center For Disease Control, Center for Infectious Diseases, Hospital Infections Program has published "Guidelines for Isolation Precautions in Hospitals"(1983) which recommends which materials to consider infective based on the specific organism of concern. When the organism of concern is known, quarantine wastes that the guidelines recommends be considered infective materials are infectious wastes and other wastes may be considered not to be infectious waste.]

[B. A.] Cultures and stock of microorganisms and biologicals.

Discarded cultures, stocks, specimens, vaccines and associated items [that may likely to] have been contaminated by them are infectious wastes if they [may are likely to] contain organisms [that may likely to] be pathogenic to [healthy] humans. Discarded etiologic agents are infectious waste. Wastes from the production of biologicals and antibiotics [that may likely to] have been contaminated by organisms [that may likely to] be pathogenic to [healthy] humans are infectious wastes.

[C. B.] Blood and blood products.

Wastes consisting of human blood, human blood products (includes serum, plasma, etc.) and items contaminated by [free-flowing] human blood are

infectious waste.

[D. C.] Pathological wastes.

All pathological wastes and all wastes that are human tissues, organs, body parts, or body fluids are infectious waste.

[E. D.] Sharps.

Used hypodermic needles, syringes, scalpel blades, pasteur pipettes, broken glass and similar devices [that may likely to] be contaminated with organisms that are pathogenic to [healthy] humans and all sharps used in patient care are infectious wastes.

[F. E.] Animal carcasses, body parts, bedding and related wastes.

When animals are [exposed to organisms that may be pathogenic to humans intentionally infected with organisms likely to be pathogenic to healthy humans] for the purposes of research, in vivo testing, production of biological materials or any other reason; the animal carcasses, body parts, bedding material and all other wastes [that may likely to] have been contaminated are infectious wastes when discarded, disposed of or placed in accumulated storage.

[G. F.] Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of any infectious waste.

[H. G.] Any waste contaminated by or mixed with infectious waste.

PART IV. GENERAL REQUIREMENTS.

§ 4.1. Permits and permits by rule.

No person, who is subject to these regulations, shall treat, store, or dispose of infectious waste without a permit from the department to engage in those activities.

A. Persons required to have a permit.

Any person required to have a permit for activities in management of infectious waste shall apply for and receive a permit in accord with Part IX of these regulations; except that certain facilities may be deemed to have a permit by rule in accord with § 4.1.B of these regulations.

B. Person qualifying for a permit by rule.

Qualifying facilities are deemed to operate under a permit for infectious waste management activities and their owners or operators are not required to comply with the permit issuance procedures of Part IX of these regulations. While persons who own or operate qualifying

Final Regulations

facilities are not subject to Part IX or required to have a written permit from the department for those qualifying facilities, they are subject to these regulations and all other parts thereof. If a person owns or operates an infectious waste management facility that does not qualify for a permit by rule, that person must comply with Part IX and all other parts of these regulations for those facilities, without regard to the presence of any other facilities on the site that are operated under a permit by rule. Only those facilities that are in complete compliance with all the following conditions are qualified and considered to be under a permit by rule for their operation, and the permit by rule shall be immediately terminated when the facility fails to fulfill any of the following conditions:

1. The facility and all infectious waste activities are in compliance with all parts of these regulations except Part IX.

2. More than 75% (by weight, in a calendar year) of all infectious waste that is stored, treated or disposed of by the facility is generated on-site.

3. [*Infectious wastes are not transported more than 10 travel miles by motor vehicle on roads or highways of the Commonwealth, and*] No infectious waste is transported or received by the facility without being properly packaged and labelled in accordance with these regulations.

4. The activities at the facility do not involve the placing of infectious waste directly into or on the land.

5. The owner or operator of the facility has notified the executive director in writing that the facility is operating under a permit by rule. The notice shall give the name of the facility; the mailing address of the facility; the location address of the facility; the type of business the facility serves; the type of facilities (treatment, storage, transportation, disposal) involving infectious waste; and the name, address and telephone number of the principal corporate officer.

C. Application to existing permitted facilities.

On the date these regulations become effective, they shall apply in full to infectious waste facilities that are operating on that date. Permits issued by the department prior to the effective date of these regulations shall be deemed to be amended such that any conditions contained in the permits that conflict with these regulations shall be void.

§ 4.2. Financial assurance requirements.

The department has adopted and will maintain separate regulation, Financial Assurance Regulations For Solid Waste Facilities, which are applicable in all parts to infectious waste management facilities. Nothing in these

regulations governing infectious waste management shall be considered to delete or alter any requirements of the department as set out in Financial Assurance Regulations For Solid Waste Facilities.

§ 4.3. Packaging and labeling requirements for infectious waste.

A. Responsibility for packaging and labeling.

1. The generator of infectious waste is responsible for the packaging and labeling of infectious wastes. As a bag or other container becomes full, it shall be sealed, packaged, labeled and managed as described in these regulations. Contractors or other agents may provide services to the generator, including packaging and labeling of infectious waste; however, no contract or other relationship shall relieve the generator of the responsibility for packaging and labeling the infectious waste as required by these regulations.

2. No person shall receive for transportation, storage, treatment or disposal any infectious waste that is not packaged in accord with these regulations. Contractors or other agents may package or repackage infectious wastes to comply with these regulations, if the packaging or repackaging is performed on-site where the infectious waste was generated and no transportation, storage, treatment or disposal occurs prior to the packaging or repackaging. Nothing in this section shall prevent the proper repackaging and further transportation of infectious waste that has spilled during transportation.

B. Packaging prior to storage, treatment, transport or disposal.

All infectious waste shall be packaged as follows before it is stored, treated, transported or disposed of:

1. Infectious wastes shall be contained in two [~~one bag inside the other~~] impermeable, leak-proof plastic bags each capable of passing the ASTM 125 pound drop weight test and each sealed separately [, or one leak-proof, plastic bag inside a double-walled corrugated fiberboard box or equivalent rigid container. Free liquids should be contained in sturdy leak-proof containers that resist breaking; heavy materials must be supported in boxes. Sharps shall be collected at the point of generation in puncture resistant containers, and those containers placed inside a plastic bag prior to storage or transport] .

2. All bags containing infectious waste shall be red in color, except that infectious waste that is to be sterilized shall be contained in orange bags and marked with autoclave tape. Waste contained in red bags shall be considered infectious waste and managed as infectious waste. Wastes in orange bags shall be managed as infectious wastes prior to [steam] sterilization and as solid waste after [steam]

sterilization. Waste in orange bags shall be sterilized before disposal and shall not be treated or disposed of by incineration, landfilling or any other method prior to [steam] sterilization.

3. Bags shall be sealed by lapping the gathered open end and binding with tape or closing device such that no liquid can leak.

4. In addition to the plastic bag containers described in this section, all infectious wastes shall be enclosed in a double-wall corrugated fiberboard box or equivalent rigid container before it is transported off-site or in a motor vehicle on a street or highway. The box or container must meet the standards of 49 CFR 178.210 for a classified strength of at least 275 pound test and be class DOT-12A80 or DOT-12A50.

C. Labeling requirements.

All infectious waste shall be labeled immediately after packaging. The label shall be securely attached to the outer layer of packaging and be clearly legible. The label may be a tag securely affixed to the package. Indelible ink shall be used to complete the information on the label, and the label shall be at least three inches by five inches in size. The following information shall be included:

1. The name, address and business telephone number of the generator.

2. "Infectious Waste" in large print.

[3. "Pathological Waste," if pathological waste is included in the contents.]

[4. 3.] The name, address and business telephone number of all haulers or other persons to whose control the infectious waste [was is] transferred.

[5. 4.] The Biological Hazard Symbol.

D. Etiological agents.

All etiological agents, as defined in 49 CFR 173.386, that are transported shall be packaged as described in 49 CFR 173.387 and labeled as described in 49 CFR 173.388, even when that transport is wholly within the boundaries of the Commonwealth.

E. Sharps.

Sharps shall be placed directly into rigid and puncture-resistant containers.

F. Protection of packagers.

Persons packaging infectious waste shall wear heavy gloves of neoprene or equivalent materials and other appropriate items of personal protection equipment. As a minimum, other appropriate equipment shall include that

recommended in "CDC Guidelines for Isolation Precautions In Hospitals" (1983) by the Center for Disease Control, Hospital Infections Program, Center for Infectious Diseases.

§ 4.4. Management of spills of infectious waste.

A. Spill containment and cleanup kit.

All infectious waste management facilities are required to keep a spill containment and cleanup kit within the vicinity of any area where infectious wastes are managed, and the location of the kit shall provide for rapid and efficient cleanup of spills anywhere within the area. All vehicles transporting infectious wastes are required to carry a spill containment and cleanup kit in the vehicle whenever infectious wastes are conveyed. The kit shall consist of at least the following items:

1. Material designed to absorb spilled liquids. The amount of absorbent material shall be that having a rated capacity one gallon of liquid for every cubic foot of infectious waste that is normally managed in the area for which the kit is provided or 10 gallons, whichever is less.

2. One gallon of hospital grade disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream at a distance. The disinfectant should be hospital grade and effective against mycobacteria.

3. [Fifty Enough] red plastic bags [to double enclose 150% of the maximum load accumulated or transported,] that meet the ASTM 125 pound drop weight test and are accompanied by sealing tape (or devices) and labels (or tags). These bags shall be large enough to overpack any box or other container normally used for infectious waste management by that facility.

4. Two new sets of liquid impermeable and disposable overalls, gloves, boots, caps and protective breathing devices. Overalls, boots and caps shall be oversized or fitted to infectious waste workers and be made of [Tyvek ® or equivalent material materials impermeable to liquids] . Boots may be of thick rubber and gloves shall be of heavy neoprene or equivalent (these items - boots, gloves and breathing devices - may be reused if fully disinfected between uses). Protection breathing devices shall be [surgical masks or superior in approved for] filtering particulates and mists [; usually, disposable surgical masks will suffice] . Tape for sealing wrists and ankles shall also be in the kit.

5. A first aid kit, fire extinguisher, boundary marking tape, lights and other appropriate safety equipment.

B. Containment and cleanup procedures.

Following a spill of infectious waste or its discovery, the following procedures shall be implemented:

Final Regulations

[1. Leave the area until the aerosol settles (no more than a few minutes delay).]

[~~1~~ 2.] The cleanup crew will don the cleanup outfits described in § 4.4.A.4 and secure the spill area.

[~~2~~ 3.] Spray the broken containers of infectious waste with disinfectant.

[~~3~~ 4.] Place broken containers and spillage inside overpack bags in the kit, minimizing exposure.

[4. 5.] Disinfect the area and take other cleanup steps deemed appropriate.

[~~5~~ 6.] Clean and disinfect nondisposable items.

[~~6~~ 7.] Clean and disinfect cleanup outfits before removing.

[~~7~~ 8.] Remove cleanup outfits and place disposable items in cleanup bag.

[~~8~~ 9.] Take necessary steps to replenish containment and cleanup kit with items used.

C. When a spill involves only a single container of waste whose volume is less than 32 gallons and spilled liquid whose volume is less than one quart, the individual responsible for the cleanup may elect to use alternate appropriate dress and procedures than those described in §§ 4.4.A and 4.4.B. Such alternate dress or procedures shall provide an equal protection of the health of workers and the public.

§ 4.5. Closure requirements.

When a facility that has been used for infectious waste management is to cease operations involving infectious wastes, it shall be thoroughly cleaned and disinfected. All waste shall be disposed of in accord with these regulations, and items of equipment shall be disinfected. (NOTE: The department maintains other regulations that define requirements for the closure of solid waste management facilities, these regulations shall be reviewed and complied with in the closure of infectious waste management facilities.)

§ 4.6. Methods of treatment and disposal.

A. All infectious waste shall be either incinerated or sterilized by steam. Gas sterilization, thermal inactivation, irradiation and chemical treatment will not be approved except under special approval of the executive director as experimental facilities. (NOTE: Bed linen, instruments, equipment and other reusable items are not wastes until they are discarded. This section and these regulations, as a whole, apply only to wastes, and they do not include the sterilization or disinfection of items that are reused for their original purpose. Therefore, the method of sterilization or disinfection of items prior to reuse is not

limited. When reusable items are no longer serviceable and are discarded, they are wastes and subject to regulation at that time and must be sterilized by steam or incinerated if contaminated.)

B. No infectious waste shall be disposed of in a solid waste landfill or other solid waste management facility. Upon [~~sterilization~~ incineration] or steam incineration in accord with these regulations, the waste or its ash is not infectious waste and may be disposed of at any landfill or other solid waste management facility permitted to receive putrescible waste or garbage.

C. All pathological waste shall be incinerated; other disposal methods are not acceptable for this type of waste. However, this requirement does not prohibit the disposal, without storage and with or without grinding, of wastes [, including blood and body fluids,] in a sanitary sewer system.

D. Infectious waste shall not be compacted or subjected to violent mechanical stress; however, after it is fully sterilized and it is no longer infectious waste, it may be compacted in a closed container. Nothing in this section shall prevent the puncturing of containers or packaging immediately prior to steam sterilization so that steam may penetrate into the waste mass, provided the puncturing is preformed in a safe and sanitary method.

§ 4.7. Approved test method.

The following test methods shall be used for analysis or determinations under these regulations:

A. "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Publication SW-846, U.S. Environmental Protection Agency (available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3228).

B. "Guideline for Handwashing and Hospital Environmental Control," U.S. Center for Disease Control, Atlanta, Georgia.

§ 4.8. Recordkeeping requirements.

All generators and waste management facilities that manage infectious waste shall maintain the following records and assure that they are accurate and current:

1. A list of the members of the ad hoc committee for the management of infection control for the facility, their address, their phone numbers and the period of their membership.

2. The date, persons involved and short description of events in each spill of infectious wastes involving more than 32 gallons of waste or one quart of free liquid.

3. A notebook or file containing the adopted policies

and procedures of the facilities for dealing with infectious wastes.

4. A log of all special training received by persons involved in infectious waste management.

5. A log of infectious waste received from off-site, the generator, the amount and its generation and receipt dates. Records shall be maintained for a period of three years and be available for review

PART V. SPECIAL REQUIREMENTS FOR STORAGE FACILITIES.

§ 5.1. Application of Part V.

The requirements of this part apply only to areas of storage where more than [22 64] gallons of waste are accumulated. The requirements of this part apply to storage of infectious waste during transportation and at incinerator, [steam] sterilization and other treatment and disposal facilities.

§ 5.2. Sanitation.

All areas used to store infectious waste shall be clean and impermeable to liquids. Carpets and floor coverings with seams shall not be used in storage area. Vermin and insects shall be controlled.

§ 5.3. Access.

All areas used to store infectious waste shall have access control that limits access to those persons specifically designated to manage infectious waste.

§ 5.4. Temperature control and storage period.

Any infectious waste stored for more than 72 hours after generation shall be refrigerated, stored in an ambient temperature between 35°F and 45°F (2°C and 7°C). No infectious waste shall be stored for more than seven consecutive days after its generation, unless it is frozen within 72 hours of its generation and maintained frozen during the entire remaining period of storage. No infectious waste shall be stored for more than 30 days, even if frozen.

§ 5.5. Drainage and ventilation.

All floor drains shall discharge directly to an approved sanitary sewer system. All ventilation shall discharge so as to minimize human exposure to the effluent.

PART VI. SPECIAL REQUIREMENTS FOR TRANSPORTATION.

§ 6.1. Application of Part VI.

The requirements of this part apply to all transportation

of infectious waste over roads or highways, by railroad or by water conveyance. It specifically includes all motor vehicle transportation.

§ 6.2. Sanitation.

Areas of equipment used to transport infectious waste must be clean and impermeable to liquids, if those areas are involved with the management of the waste. Carpets and floor coverings with seams shall not be used. Vermin and insects shall be controlled. All trucks and equipment used to transport infectious waste shall be thoroughly cleaned and disinfected before being used for any other purpose, at the end of each business day or 24-hour period of use and prior to any transfer of ownership.

§ 6.3. Access.

All vehicles, equipment and service or parking areas used in the transportation of infectious waste shall have access control that limits access to those persons specifically designated to manage infectious waste.

§ 6.4. Temperature control and storage period.

Any infectious waste transported more than 72 hours after generation shall be refrigerated, maintained in an ambient temperature between 35°F and 45°F (2°C and 5°C), during transport and during any storage following transport. No infectious waste shall be stored for more than seven consecutive days after its generation, unless it is frozen within 72 hours of the time of its generation and maintained frozen during the entire remaining period of storage. No infectious waste shall be stored for more than 30 days, even if frozen. Time in transport shall be accounted as time in storage.

§ 6.5. Drainage.

All drainage shall discharge directly or through a holding tank to a permitted sanitary sewer system.

§ 6.6. Packaging, labeling and placards.

A. No person shall transport or receive for transport any infectious waste that is not packaged and labeled in accord with § 4.3 of these regulations.

B. The access doors to any area holding infectious waste in transport shall have a warning sign in bold and large letters that indicates the cargo is infectious waste.

C. Transportation vehicles shall bear placards depicting the international symbol for biologically hazardous materials. Placards shall conform to standards of the Department of Transportation specified in 49 CFR 172 Subpart F regarding size, placement, color and detail.

§ 6.7. Management of spills of infectious waste.

A. Spill containment and cleanup kit.

Final Regulations

All vehicles transporting infectious wastes are required to carry a spill containment and cleanup kit in the vehicle whenever infectious wastes are conveyed. The kit shall consist of at least the following items:

1. Material designed to absorb spilled liquids. The amount of absorbent material shall be rated to absorb 10 gallons.
2. One gallon of hospital grade disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream at a distance. The disinfectant should be hospital grade and effective against mycobacteria.
3. [Fifty Enough] red plastic bags [to double enclose 150% of the minimum load accumulated or transported] that meet the ASTM 125 pound drop weight test and are accompanied by seals and labels. These bags shall be large enough to overpack any box or other container normally used for infectious waste management.
4. Two new sets of impermeable and disposable overalls, gloves, boots, caps and breathing protective devices. Overalls, boots and caps shall be oversized or fitted to infectious waste workers and be made of [Tyvek [®] or equivalent material] materials impermeable to liquids] . Boots may be of thick rubber and gloves shall be of heavy neoprene or equivalent (these items - boots, gloves and breathing devices - may be reused if fully disinfected between uses). [Protection] breathing [protection] devices shall be [surgical masks or superior in approved for] filtering particulates and mists [; disposable surgical masks will suffice] . Tape for sealing wrists and ankles shall also be in the kit.
5. A first aid kit, fire extinguisher, boundary marking tape, lights and other appropriate safety equipment.

B. Containment and clean up procedures.

Following a spill of infectious waste or its discovery, the following procedures shall be implemented:

- [1. Leave the area until the aerosol settles (no more than a few minutes delay).]
- [2.] The cleanup crew will don the cleanup outfits described in § 6.7.A.4 and secure the spill area.
- [3.] Spray the broken containers of infectious waste with disinfectant.
- [4.] Place broken containers and spillage inside the overpack bags in the kit, minimizing exposure.
- [5.] Disinfect the area and take other cleanup steps deemed appropriate.
- [6.] Clean and disinfect cleanup outfits before

removing.

- [7.] Clean and disinfect nondisposable items.
- [8.] Remove cleanup outfits and place disposal items in cleanup bag.
- [9.] Take necessary steps to replenish containment and cleanup kit with items used.

C. When a spill involves only a single container of waste whose volume is less than 32 gallons and spilled liquid whose volume is less than one quart, the individual responsible for the cleanup may elect to use alternate appropriate dress and procedures. Such alternate dress or procedures shall provide an equal protection of the health of workers and the public.

§ 6.8. Loading and unloading.

Persons loading and unloading transportation vehicles with infectious waste shall wear disinfected, heavy neoprene (or equivalent) gloves and clean coveralls.

§ 6.9. Registration of transporters.

A. At least 30 days prior to transporting any infectious waste within the Commonwealth, all transporters shall register with the Department of Waste Management. Registration shall consist filing the data specified in § 6.9.B in written form, and the department will issue a registration number to the transporter. No infectious waste shall be transported until the registration number is issued. Transporters shall notify the generator of the waste of his registration number when he collects the waste.

B. Data to be submitted by persons wishing to register as transporters of infectious waste shall be as follows:

1. Name of the person or firm.
2. Business address and telephone number of person or firm. Include headquarters and local office.
3. Make, model and license number of each vehicle to be used to transport infectious waste within the Commonwealth.
4. Name, business address and telephone number of each driver who will operate in the Commonwealth.
5. Areas (counties and cities) of the Commonwealth in which the transporter will operate.
- [6. Any name other than reported in § 6.9.B.1 that is associated with the registering firm, including any who using any of the same vehicles and operators.]
 - [a. Any person or firm other than reported in § 6.9 B 1 that is associated with the registering firm or

any other name under which that person or firm does business.

b. Any other person or firm using any of the same vehicles and operators.

7. The name and phone number of a person who may be contacted in the event of an accident or release.]

C. Within 30 days following the change of any data in § 6.9.B, the transport shall notify the department of that change. Failure to notify the department nullifies the registration and invalidates the registration number.

D. Use of a false or invalid registration number is prohibited. (NOTE: All filing of data, request for registration number and issuance of a registration number shall be in writing.)

PART VII.

SPECIAL REQUIREMENTS FOR INCINERATION.

§ 7.1. Application of Part VII.

The requirements of this part apply to all facilities that incinerate infectious waste.

§ 7.2. Performance standards.

All incinerators for infectious waste shall maintain the following level of operational performance at all times:

A. Operational temperature and retention time.

Whenever infectious wastes are introduced into an incinerator, all the waste shall be subjected to a burn temperature of not less than 1400°F (760°C) [~~Note: this is the process control set point, the standard deviation shall be no more than 50°F (27°C)~~] for a period not less than one hour. Gases generated by the combustion shall be subjected to a temperature of not less than 1800°F (982°C) for a period of one second or more. [Except at start-up] interlocks or other process control devices shall prevent [~~operation feeding~~] of the incinerator [~~until~~] unless] these conditions can be achieved.

B. Loading and operating controls.

The incinerator shall have interlocks or other process control devices to prevent [~~operation feeding~~] of the incinerator until the conditions in § 7.2.A can be achieved. [Such devices may have an override for start-up.] In the event low temperatures occur, facilities shall have automatic auxiliary burners which are capable, excluding the heat content of the wastes, of independently maintaining the secondary chamber temperature at the minimum of 1800°F.

C. Monitoring.

There shall be continuous monitoring and recording of

primary and secondary chamber temperatures. Monitoring data shall be maintained for a period of three years.

D. Waste destruction efficiency.

All [~~nonmetal~~ combustible] waste shall be converted by the incineration process into ash that is not recognizable as to its former character.

E. The incinerator shall be permitted by the [State Department of] Air Pollution Control [~~Board~~] and be in compliance with the regulations of that agency.

§ 7.3. Analysis and management of the ash product.

A. Procedure.

Once every eight hours of operation of a continuously fed incinerator and once every batch or 24 hours of operation of a batch fed incinerator, a representative sample of 250 milliliters of the ash shall be collected from the ash discharge or the ash discharge conveyer. Samples collected during 1000 hours of operation or quarterly, whichever is more often, shall be thoroughly mixed and seven random portions of equal volume shall be composited into one sample for laboratory analysis. This sample shall be tested in accord with the methods established by the Virginia Hazardous Waste Management Regulations for determining if a waste is a hazardous waste. Also, the sample shall be tested for total organic carbon content.

B. Results and records.

A log shall document the ash sampling, to include the date and time of each sample collected; the date, time and identification number of each composite sample; and the results of the analyses, including laboratory identification. Results of analyses shall be returned from the laboratory and recorded within four weeks following collection of the composite sample. The results and records described in this part shall be maintained for a period of three years, and shall be available for review.

C. Disposition of ash.

If a waste ash is found to be hazardous waste (based on a sample and a confirmation sample) the waste shall be disposed of as a hazardous waste in accord with the Virginia Hazardous Waste Management Regulations. If ash is found not to be hazardous waste by analysis, it may be disposed of in a solid waste landfill that is permitted by the department to accept garbage, putrescible waste or incinerator ash. If the ash is found to be hazardous, the operator shall notify the executive director of the Department of Waste Management within 24 hours, the incinerator unit shall cease operation and shall not operate until the operator has received the written approval of the executive director to continue. No later than 15 days following, the permittee shall submit a plan for treating and disposing of the waste on hand at

Final Regulations

the facility and all unsatisfactorily treated waste that has left the facility. The permittee may include with the plan a petition to restart operation of the facility that describes the corrective actions to be taken to prevent further unsatisfactory performance. The executive director will notify the petitioner within 15 days of receipt of the petition of the decision rendered.

[D. Reduction or elimination of ash.

At any time two years following the effective date of these regulations, the executive director may reduce or eliminate any of the requirements for testing of the ash, provided the reduction or elimination is not believed to represent a threat to the public health or the environment. The reduction or elimination shall be issued in the same manner as a variance as set out in Part X.]

§ 7.4. Compliance with other parts of these regulations.

In general, incinerator facilities shall comply with all other parts of these regulation. The site of the incinerator facility is a storage facility and shall comply with Part V of these regulations. Spills or the opening in an emergency of any infectious waste package, shall comply with § 4.4 of these regulations.

§ 7.5. Unloading operations.

Persons required to handle packages of waste shall wear freshly laundered or new overalls and heavy neoprene, or equivalent, gloves.

PART VIII. SPECIAL REQUIREMENTS FOR [STEAM] STERILIZATION.

§ 8.1. Application of Part VIII.

The requirements of this part apply to all steam sterilizers (autoclaves) that sterilize infectious waste. [Steam sterilization is the only method of sterilization approved for the treatment of infectious waste.]

§ 8.2. Performance standards.

All sterilizers for infectious waste shall maintain the following level of operational performance at all times:

A. Operational temperature and detention.

Whenever infectious wastes are treated in a steam sterilizer, all the waste shall be subjected to the following operational standards:

1. Temperature of not less than 250°F for 90 minutes at 15 pounds per square inch of gauge pressure, [~~or~~]
2. Temperatures of not less than 272°F for 45 minutes at 27 pounds per square inch of gauge pressure [, ,]

[3. Temperature of not less than 250° F for 28 minutes at 80 pounds per square inch of gauge pressure, or

4. Temperatures of not less than 270° F for 16 minutes at 80 pounds per square inch of gauge pressure.]

Other combinations of operational temperatures, pressure and time may be approved by the department if the installed equipment has been proved to achieve a reliable and complete kill of all microorganisms in waste at design capacity. Complete and thorough testing shall be fully documented, including tests of the capacity to kill *B. stearothermophilus*. [Longer steam sterilization times are required when a load contains a large quantity of liquid.]

B. Operational controls and records.

1. Each package of waste to be sterilized shall have a tape attached that will indicate if the [steam] sterilization temperature has been reached and waste will not be considered satisfactorily sterilized if the indicator fails to indicate that temperature was reached during the process.

2. [Steam] sterilization units shall be evaluated under full loading for effectiveness with spores of *B. stearothermophilus* no less than once per month.

3. A log shall be kept at each [steam] sterilization unit that is complete for the proceeding three-year period. The log shall record the date, time and operator of each usage; the type and approximate amount of waste treated; the post-sterilization reading of the temperature sensitive tape; the dates and results of calibration; and the results of effective testing described in § 8.2.B.2. Where multiple [steam] sterilization units are used, a working log can be maintained at each unit and such logs periodically consolidated at a central location. The consolidated logs shall be retained for three years and be available for review.

4. Infectious waste shall not be compacted or subjected to violent mechanical stress before [steam] sterilization; however, after it is fully sterilized it may be compacted in a closed container.

§ 8.3. Compliance with other parts of these regulations.

In general, sterilizer facilities shall comply with all other parts of these regulations. The site of the sterilizer facility is a storage facility and shall comply with Part V of these regulations. Spills or the opening in an emergency of any infectious waste package, shall comply with § 4.4 of these regulations.

PART IX. PERMIT APPLICATION AND ISSUANCE

PROCEDURES.

§ 9.1. Scope of Part IX.

This part of the regulations requires a permit for the treatment, storage or disposal of any infectious waste unless specifically excluded by these regulations or under a permit by rule as defined in § 4.1 of these regulations. Owners and operators of infectious waste management units shall have permits during the active life (including the closure periods) of the unit. The executive director may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility.

§ 9.2. Application for permit.

A. Permit application.

Any person who is required to have a permit, including new applicants and permittees with expiring permits, shall complete, sign, and submit an application to the executive director, including the form contained in the appendix. Persons covered by permits by rule need not apply, but must notify the department in accord with Part IV. Procedures for application, issuance and administration of emergency permits are found exclusively in § 9.7.A. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in § 9.7.D.

B. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit; however, the owner shall also sign the permit application.

C. Completeness of application.

1. The executive director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit contained in § 9.3 and the signature requirements of § 9.6.

2. The executive director shall not issue a permit before receiving a complete application except permits by rule or emergency permits. An application for a permit is complete when the executive director receives an application form and any supplemental information which are completed to his satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

3. All applicants for infectious waste management permits shall provide information set forth in § 9.3 and applicable portions of § 9.4 to the executive director.

D. Existing facilities qualifications.

Owners and operators of existing and permitted infectious waste management facilities are not required to submit an application for a new permit at the time these regulations become effective. Existing permits will remain valid, except that conditions or waivers in existing permits in conflict with these regulations are void and operators of existing facilities are required to comply with these regulations.

E. New facilities.

No person shall begin physical construction of a new facility without having submitted the permit application and having received a final effective permit.

§ 9.3. Contents of the application.

The application shall include the following information:

1. The activities conducted by the applicant which require him to obtain a permit.
2. Name, mailing address, and location of the facility for which the application is submitted.
3. The latitude and longitude of the facility.
4. The name, address and telephone number of the owner or the facility.
5. An indication of whether the facility is new or existing.
6. For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas.
7. For existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.
8. The operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity.
9. A listing of all permits or construction approvals received or applied for under any of the following programs and their counterpart programs administered by the Commonwealth:
 - a. Hazardous waste management program under RCRA;
 - b. NPDES program under CWA;
 - c. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
 - d. Nonattainment program under the Clean Air Act;

Final Regulations

e. Other relevant environmental permits, including local permits.

10. A topographic map, or other map if a topographic map is unavailable, extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its infectious waste treatment, storage, or disposal facilities; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within the quarter-mile of the facility property boundary.

11. A brief description of the nature of the business.

12. A description of the processes to be used for treating, storing, transporting and disposing of infectious waste, and the design capacity of these items;

13. A description of the type of the infectious wastes to be treated, stored, transported or disposed at the facility, an estimate of the quantity of such wastes to be treated, stored, transported or disposed annually [- ;]

[14. A certification from the governing body of the city, county or town in which the facility is to be located that the location and operation of the facility are consistent with all applicable ordinances (in accordance with § 10.1-1408.1 B of the Code of Virginia.]

§ 9.4. Detailed submittal.

The following information is required for all facilities; however, its submittal may be delayed pending a preliminary evaluation by the department of the concept of the application based on the information above.

A. Conceptual review.

The applicant may request in writing that the department perform a conceptual review. The evaluation of the concept is not a commitment on the part of the department to issue a permit, nor is it a commitment by the applicant to proceed with the permitting process.

B. Final review.

No final permit will be considered or issued until the following information is submitted and is complete. (NOTE: If owners and operators of facilities can demonstrate that the information prescribed cannot be provided to the extent required, the executive director may take allowance for submission of such information on a case by case basis.)

1. A description of procedures, structures, or equipment used at the facility to:

a. Prevent hazards in unloading operations.

b. Prevent run-off from infectious waste handling areas to other areas of the facility or environment.

c. Prevent contamination of water supplies.

d. Mitigate effects of equipment failure and power outages.

e. Prevent exposure of personnel to infectious waste.

2. Traffic pattern, estimated volume (number, types of vehicles) and control; described access road surfacing and load bearing capacity; show traffic control signals.

3. Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year flood plain. This identification shall indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where a FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which shall be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

4. An outline of both the introductory and continuing training programs by owners and operators to prepare persons to operate or maintain the facility in a safe manner as required. A brief description of how training will be designed to meet actual job tasks.

5. A copy of the closure plan.

6. Closure cost documentation. The most recent closure cost and post-closure cost estimates for the facility and a copy of the documentation required to demonstrate financial assurance under.

7. A topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet) or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

a. Map scale and date.

- b. 100-year flood plain area.
- c. Surface waters including intermittent streams.
- d. Surrounding land uses (residential, commercial, agricultural, recreational).
- e. A wind rose (i.e., prevailing wind speed and direction).
- f. Orientation of the map (north arrow).
- g. Legal boundaries of the facility site.
- h. Access control (fences, gates).
- i. Injection and withdrawal wells both on-site and off-site.
- j. Buildings; treatment, storage, or disposal operations; or other structures (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.).
- k. Barriers for drainage or flood control.
- l. Location of operational units within the facility site, where infectious waste is (or will be) treated, stored, or disposed (including equipment cleanup areas).
- m. Applicants may be required to submit such information as may be necessary to enable the executive director to carry out his duties as required.
8. From owners or operators of facilities that are used or to be used for storage or treatment, a description of the containment and refrigeration system.
9. For facilities that incinerate infectious waste.
- a. An analysis of each waste or mixture of wastes to be burned.
- b. Estimated heat value of the waste in the form and composition in which it will be burned.
- c. A detailed engineering description of the incinerator, including:
- (1) Manufacturer's name and model number of incinerator.
- (2) Type of incinerator.
- (3) Linear dimension of incinerator unit including cross sectional area of combustion chamber.
- (4) Description of auxiliary fuel system (type/feed).
- (5) Capacity of prime mover.
- (6) Description of automatic waste feed cutoff system(s).
- (7) Stack gas monitoring and pollution control monitoring system.
- (8) Nozzle and burner design.
- (9) Construction materials.
- (10) Location and description of temperature, pressure, flow indication and control devices.
- (11) Feed-minimum temperature interlock system.
- d. The expected incinerator operation information, including:
- (a) Gas zone temperatures and detention time;
- (b) Waste feed rate;
- (c) Combustion zone temperature;
- (d) Indication of combustion gas velocity;
- (e) Expected stack gas volume, flow rate, and temperature;
- (f) Computed residence time for waste in the combustion zone;
- (g) Proposed waste feed cutoff limits based on the identification significant operating parameters.
- (h) Operation of feed-temperature maintenance interlock system.
- e. Such supplemental information as the executive director finds necessary to achieve the purposes of this paragraph.
- § 9.5. Recordkeeping.
- Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted for a period of at least three years from the date the application is signed.
- § 9.6. Signatories to permit applications and reports.
- A. Applications.
- All permit applications shall be signed as follows:
1. For a corporation: By a principal corporate officer as defined in Part I.

Final Regulations

2. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

3. For a municipality, state, federal, or other public agency: By either a principal executive officer (see Part I) or ranking elected official.

B. Reports.

All reports required by permits and other information requested by the executive director shall be signed by a person described in § 9.6.A above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in § 9.6.A;
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
3. The written authorization is submitted to the executive director.

C. Changes to authorization.

If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements shall be submitted to the executive director prior to or together with any reports, information or applications to be signed by an authorized representative.

D. Certification.

Any person signing a document under § 9.6.A or § 9.6.B shall make the following certification:

"I certify under penalty of law that this document and all attachments are prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

§ 9.7. Special infectious waste management permits.

A. Emergency permits.

Notwithstanding any other provision of Part IX, in the event the executive director finds an imminent and substantial endangerment to human health or the

environment, the executive director may issue a temporary emergency permit to a facility to allow treatment, storage, transportation or disposal of infectious waste for a nonpermitted facility or infectious waste not covered by the permit for a facility with an effective permit. Such permits:

1. May be oral or written. If oral, it shall be followed within five days by a written emergency permit;
2. Shall not exceed 90 days in duration;
3. Shall clearly specify the infectious wastes to be received, and the manner and location of their treatment, storage, transportation or disposal;
4. May be terminated by the executive director at any time without process if it is determined that termination is appropriate to protect human health or the environment; and
5. Shall be accompanied by a public notice as required by the Virginia Administrative Process Act, including:

- a. Name and address of the office granting the emergency authorization;
 - b. Name and location of the permitted facility;
 - c. A brief description of the wastes involved;
 - d. A brief description of the action authorized and reasons for authorizing it;
 - e. Duration of the emergency permit; and
6. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of these regulations.

B. Research, development and demonstration permits.

1. The executive director may issue a research, development and demonstration permit for any infectious waste treatment facility which proposes to utilize an innovative and experimental infectious waste treatment technology or process for which permit standards for such experimental activity have not been promulgated. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

- a. Shall provide for the construction of such facilities as necessary, and for operation of the facility for no longer than one year unless renewed as provided in § 9.7.D.4, and
- b. Shall provide for the receipt and treatment by the facility of only those types and quantities of infectious waste which the executive director deems

necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

c. Shall include such requirements as the executive director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure and remedial action), and such requirements as the executive director deems necessary regarding testing and providing of information to the executive director with respect to the operation of the facility.

2. For the purpose of expediting review and issuance of permits under this section, the executive director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in Part IX.

3. The executive director may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

4. Any permit issued under § 9.7.B may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.

§ 9.8. Conditions applicable to all permits.

The following conditions apply to all infectious waste management permits. All conditions applicable to all permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations shall be given in the permit.

A. Duty to comply.

The permittee shall comply with all conditions of the permit, except that permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit (see § 9.7.A). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of Title 10.1, Code of Virginia, and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

B. Duty to reapply.

If the permittee wishes to continue a regulated activity after the expiration date of his permit, he shall apply for and obtain a new permit.

C. Need to halt or reduce activity not a defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to mitigate.

In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

E. Proper operation and maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with permit conditions.

F. Permit actions.

The permit may be modified, revoked, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation, and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

G. Property rights.

The permit does not convey any property rights of any sort, or any exclusive privilege. Possession of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of Commonwealth or local law or regulations.

H. Duty to provide information.

The permittee shall furnish to the Commonwealth within a reasonable time, any pertinent information which the executive director may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the executive director, upon request, copies of records required to be kept by the permit.

I. Inspection and entry.

The permittee shall allow the executive director or an authorized representative, upon the presentation of credential and other documents as may be required by law, to:

Final Regulations

1. Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of the permit;

2. Have access to and copy, at reasonable times, any records that shall be kept under the conditions of the permit;

3. Inspect at reasonable times any facilities, equipment practices, or operations regulated or required under the permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the regulations, any substances or parameters at any location.

J. Monitoring and records.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, including all calibrations and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, certification or application. This period may be extended by request of the executive director at any time.

3. Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

K. Signatory requirement.

All applications, reports, or information submitted to the executive director shall be signed and certified as specified as § 9.6.

L. Reporting requirements.

1. Planned changes. The permittee shall give written notice to the executive director as soon as possible of any planned physical alterations or conditions to the

permitted facility.

2. Anticipated noncompliance. The permittee shall give advance written notice to the executive director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not commence treatment, storage or disposal of infectious waste; and for a facility being modified the permittee may not treat, store or dispose of infectious waste in the modified portion of the facility, until:

a. The permittee has submitted to the executive director by certified mail or hand delivery a letter signed by the permittee stating that the facility has been constructed or modified in compliance with the permit; and

b. The executive director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit.

3. Transfers. This permit is not transferable to any person except with the approval of the executive director. The executive director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary. If the executive director finds that a name change is a minor modification, the requirements of § 9.17 will apply.

4. Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit or these regulations.

5. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

6. Twenty-four hour reporting.

a. The permittee shall report to the department any noncompliance which may endanger health or environment. Any information shall be provided orally within 24-hours from the time the permittee becomes aware of the circumstances.

b. The following shall be included as information which shall be reported orally within 24-hours:

(1) Information concerning release of any infectious waste that may cause an endangerment to public health.

(2) Any information of a release or discharge of infectious waste, or of a fire or explosion from a facility, which could threaten the environment or human health outside the facility. The description of

the occurrence and its cause shall include:

- (a) Name, address and telephone number of the owner or operator;
- (b) Name, address and telephone number of the facility;
- (c) Date, time and type of incident;
- (d) Name and quantity of material(s) involved;
- (e) The extent of injuries, if any;
- (f) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
- (g) Estimated quantity and disposition of recovered material that resulted from the incident.

c. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. The executive director may waive the five-day notice requirement in favor of a written report within 15 days.

7. Other information where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the executive director, he shall promptly submit such facts or information.

§ 9.9. Establishing permit conditions.

A. General.

In addition to conditions required in all permits, the executive director shall establish conditions as required on a case-by-case basis, for the duration of permits, schedules of compliance, monitoring, and to provide for and assure compliance with all applicable requirements of these regulations.

Each permit issued under Part IX shall contain terms and conditions as the executive director determines necessary to protect human health and the environment.

B. An applicable requirement is a Commonwealth statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit.

An applicable requirement is also any requirement

which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in § 9.15.

C. New or reissued permits, and to the extent allowed under § 9.15, modified or revoked and reissued permits, shall incorporate each of the applicable requirements in these regulations.

D. Incorporation.

All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements shall be given in the permit.

§ 9.10. Duration of permits and renewal of permits.

A. Infectious waste management permit shall be effective for a fixed term not to exceed 10 years.

B. The term of a permit shall not be extended by modification beyond the maximum duration specified in this part.

C. The executive director may issue any permit for a duration that is less than the full allowable term under this part.

D. If the holder of a valid permit for an infectious waste management facility files with the executive director a request to renew or extend the permit at least 180 days prior to the expiration of that permit, the executive director will cause an audit to be conducted of the [facilities facility's] past operation, its current condition and the records held by the department concerning the facility. Within 60 days of receipt of a proper request, the department will report [to] the applicant the results of the audit and those items of correction or information required before renewal will be considered. At the time of filing, the applicant shall provide all information known to him that is changed or new since the original permit application and which he has not previously provided to the department. If the applicant files for renewal or extension less than 180 days prior to the expiration of the original permit or files an improper application the executive director shall deny the application for renewal. If an application for renewal has been denied for a facility, any further applications and submittals shall be identical to those for a new facility.

E. The executive director may refuse to renew a permit or issue a new permit for a facility if the facility has had a record of violations of the permit or regulations of the department, as evidenced by notices and other enforcement actions of the department; if the executive director believes current facilities may pose a threat to the health or environment or the facility will not comply with current regulations for design, siting and other physical characteristics which apply to new facilities.

Final Regulations

§ 9.11. Effect of a permit.

A. Compliance with a valid permit during its term constitutes compliance for purposes of enforcement, with the Virginia Solid Waste Management Act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in these regulations.

B. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

C. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of Commonwealth or local law or regulations.

§ 9.12. Transfer of permits.

A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary.

§ 9.13. Schedule of compliance.

A. The permit may, when appropriate, specify a schedule of compliance leading to compliance with these regulations.

1. Any schedules of compliance under this part shall require compliance as soon as possible.

2. Except as otherwise provided, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

a. The time between interim dates shall not exceed one year;

b. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages of completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, a permittee shall notify the executive director, in writing, of his compliance or noncompliance with the interim or final requirements.

§ 9.14. Modification, revocation and reissuance, or termination of permits.

A. If the executive director tentatively decides to modify

or revoke and reissue a permit, he shall prepare a draft permit incorporating the proposed changes. The executive director may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the executive director shall require the submission of a new application.

1. In a permit modification under this part, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this part, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

2. Minor modifications as specified in § 9.17 are not subject to the above requirements.

B. If the executive director tentatively decides to terminate a permit, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 9.18.

§ 9.15. Modification or revocation and reissuance of permits.

When the executive director receives any information, he may determine whether one or more of the causes listed for modification or revocation and reissuance or both exist. If cause exists, the executive director may modify or revoke and reissue the permit accordingly, subject to the limitations of § 9.15.C, and may request an updated application if necessary. If cause does not exist under this section or § 9.17, the executive director shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in § 9.17 for minor modifications, the permit may be modified without a draft permit or public review. Otherwise, a draft permit shall be prepared and other appropriate procedures followed.

A. Causes for modification.

The following are causes for modification but not revocation and reissuance of permits.

1. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

2. If the executive director has received information pertaining to circumstances or conditions existing at the time the permit was issued that was not included in the administrative record and would have justified

the application of different permit conditions, the permit may be modified accordingly if in the judgment of the executive director such modification is necessary to prevent significant adverse effects on public health or the environment.

3. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

a. For promulgation of amended standards or regulations, when:

(1) The permit condition requested to be modified was based on a promulgated infectious waste regulation;

(2) The Commonwealth has revised, withdrawn or modified that portion of the regulation on which the permit condition was based; and

(3) A permittee requests modification within 90 days after notice of the action on which the request is based.

b. For judicial decision, a court of competent jurisdiction has remanded and stayed Commonwealth regulations, if the remanded and stay concern that portion of the regulations on which the permit condition was based and a request is filed by the permittee within 90 days of judicial remand.

4. The executive director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or material shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

5. The executive director may modify a permit:

a. After the executive director receives the notification of expected closure, when he determines that extension of the 90 or 180 day periods under that part, modification of the 30-year post-closure period, continuation of the security requirements, or permission to disturb the integrity of the containment system under are unwarranted;

b. When the permittee has filed a request for a variance to the level of financial responsibility or when the executive director demonstrates that an upward adjustment of the level of financial responsibility is required.

c. To include conditions applicable to units at a facility that were not previously included in the

facility's permit.

B. Cause for modification or revocation and reissuance.

The following are causes to modify or, alternatively, revoke and reissue a permit:

1. Cause exists for termination under § 9.16, and the executive director determines that a modification or revocation and reissuance is appropriate.

2. The executive director has received notification of a proposed transfer of an existing permit.

C. Facility siting.

The suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that an endangerment to human health or the environment exists which was unknown at the time of permit issuance.

§ 9.16. Termination of permits.

A. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

1. Noncompliance by the permittee with any condition of the permit;

2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

3. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

B. The executive director shall follow the applicable procedures of the Virginia Administrative Process Act in terminating any permit under this part.

§ 9.17. Minor modification of permits.

Upon the consent of the permittee, the executive director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this part, without following the required procedures for major modification, including those concerning public notice and public hearing. Any permit modification not processed as a minor modification under this part shall be made for cause and with draft permit and public notice as required. Minor modifications may only:

1. Correct typographical error;

2. Require more frequent monitoring or reporting by

Final Regulations

the permittee;

3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

4. Allow for a change in ownership or operational control of a facility where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the director. Changes in the ownership or operational control of a facility may be made without further proceeding if the new owner or operator submits a revised permit application no later than 60 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of any financial assurance regulations, until the new owner or operator has demonstrated to the director that he is complying with the requirement. The new owner or operator shall demonstrate compliance with the requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance, the director shall notify the old owner or operator in writing that he no longer needs to comply with § 9.7 as of the date of demonstration.

5. Change the lists of facility personnel or equipment in the permit's contingency plan.

§ 9.18. Draft permits.

A. Once an application is complete, the executive director shall tentatively decide whether to prepare a draft permit or to deny the application.

B. If the executive director tentatively decides to deny the permit application, he shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this part. If the executive director's final decision is that the tentative decision to deny the permit was incorrect, he shall withdraw the notice of intent to deny and proceed to prepare a draft permit.

C. If the executive director decides to prepare a draft permit, he shall prepare a draft permit that contains the following information:

1. All conditions under §§ 9.8 and 9.9;
2. All compliance schedules under § 9.13.

§ 9.19. Public notice of permit actions and public comment period.

A. Scope.

The executive director shall give public notice that the following actions have occurred:

1. A draft permit has been prepared; or
2. A hearing has been scheduled.

B. Timing.

1. Public notice of the preparation of a draft permit or the intent to deny a permit application shall allow at least 45 days for public comment;
2. Public notice of a public hearing shall be given at least 30 days before the hearing.

C. Methods.

Public notice of activities described in this part shall be given by the following methods:

1. By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his rights to receive notice for any classes and categories of permits):

a. The applicant;

b. Any other agency which the executive director knows has issued or is required to issue a permit for the same facility or activity; and to each state agency having any authority under the state law with respect to the construction or operation of such facility, including the [State Department of] Air Pollution Control [Board] for incinerator facilities;

c. Any unit of local government having jurisdiction over the area where the facility is proposed to be located and the appropriate regional solid waste planning agency;

2. Publication of a notice in a daily or weekly major local newspaper of general circulation.

D. Contents.

1. All public notices issued under this part shall contain the following minimum information;

a. Name and address of the office processing the permit action for which notice is being given;

b. Name and address of the permittee or permit applicant and, if different, of the facility or activity

regulated by the permit;

c. A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

d. The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or fact sheet, and the application; and

e. A brief description of the comment procedures required and the time and place of any hearing that will be held, including a statement of procedures to request a hearing unless already scheduled, and other procedures by which the public may participate in the final permit decision.

2. In addition to the general public notice described in § 9.19.D.1, the public notice of a hearing shall contain the following information:

a. Reference to the date of previous public notices relating to the permit;

b. Date, time, and place of the hearing; and

c. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

§ 9.20. Public comments and requests for public hearings.

During the public comment period provided, any interested person may submit written comments on the draft permit and may request a public hearing if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in § 9.23.

§ 9.21. Public hearings.

A. The executive director shall hold a public hearing whenever he receives written notice of opposition to a draft permit and a request for a hearing during the public comment period specified in § 9.19.B.1.

B. In addition to hearings required in § 9.21.A, the executive director may hold a public hearing at his discretion, whenever, for instance, such a hearing might clarify one or more issues involved in permit decision.

C. Whenever a public hearing is scheduled:

1. Public notice of the hearing shall be given as specified in § 9.19.B; and

2. Shall be held in the locality convenient to the nearest population center to the proposed facility.

§ 9.22. Obligation to raise issues and provide information during the public comment period.

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the executive director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period. All supporting materials shall be included in full and not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of Commonwealth or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the Commonwealth as directed by the executive director.

§ 9.23. Response to comments.

A. Any time that any final permit decision is issued, the executive director shall issue a response to comments, when a final permit is issued. This response shall:

1. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

2. Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

B. The response to comments shall be available to the public.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WASTE MANAGEMENT

APPLICATION FOR A PERMIT FOR AN INFECTIOUS WASTE MANAGEMENT FACILITY

NAME OF APPLICANT _____
ADDRESS _____

LOCATION OF SITE (Describe and attach map showing exact location)

SIZE OF SITE _____ Acres WASTE MANAGEMENT RATE (Estimated) _____ Tons
Per Day

OPERATOR (If Different From Applicant) _____

OPERATOR ADDRESS _____

TYPE OF FACILITY FOR WHICH APPLICATION IS MADE

- Storage of Infectious Waste
- Transportation of Infectious Waste
- Incineration of Infectious Waste
- Steam Sterilization of Infectious Waste
- Experimental Treatment Method for Infectious Waste

TYPES OF WASTE EXPECTED (Check all those for which permit is sought)

- Pathological
- Hospital
- Non-hospital Medical Care
- Mortuary
- Laboratory
- Etiological Agents
- Industrial Biological
- Infected Animal Maintenance
- Quarantine Outside Hospital
- Dialysis Unit
- Other

TITLE _____

NOTE: COVER SHEET ONLY, ATTACH OTHER REQUIRED DATA

APPENDIX 9.1

Application Cover Sheet

PART X.

RULEMAKING PETITIONS.

§ 10.1. General.

A. Any person affected by these regulations may petition the executive director to grant a variance or an exemption from any requirement of these regulations, subject to the provisions of this part. Any petition submitted to the executive director is also subject to the provisions of the Virginia Administrative Process Act (§§ 9-6.14:1 to 9-6.14:25 of the Code of Virginia).

B. The executive director will not accept any petition relating to:

1. Equivalent testing or analytical methods contained in EPA Publication SW-846; and
2. Definition of solid waste contained in these regulations.

§ 10.2. Exemptions to classification as a solid waste.

A. Applicability.

1. A person who recycles waste that is managed entirely within the Commonwealth may petition the executive director to exclude the waste at a particular site from the classification as the solid waste (see Parts I and III). The conditions under which a petition for a variance will be accepted are shown in § 10.2.B. The wastes excluded under such petitions may still, however, remain classified as a solid waste for the purposes of other regulations issued by the Virginia Waste Management Board or other agencies of the Commonwealth.

2. A person who [~~generated~~ generates] wastes at a generating site in Virginia and whose waste is transported across state boundaries, shall first obtain favorable decision from the appropriate agencies of other states before his waste may be considered for an exemption by the executive director.

3. A person who recycles materials from a generating site outside the Commonwealth and who causes them to be brought into the Commonwealth for recycling shall first obtain favorable decision from the appropriate authorities in that state before the waste may be considered for an exemption by the executive director.

B. Conditions for an exemption.

As the result of a petition and in accordance with the standards and criteria in § 10.2.C and the procedures in § 10.5, the executive director may determine on a case-by-case basis that the following recycled materials are exempt for the purposes of these regulations:

1. Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in Part I);

2. Materials that are reclaimed and then reused within the original primary production process in which they were generated;

3. Materials that have been reclaimed but shall be reclaimed further before the materials are completely recovered; and

4. Materials that are reclaimed and then reused in applications involving their placement into land.

C. Standards and criteria for exemptions.

1. The executive director may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The executive director's decision will be based on the following standards and criteria:

a. The manner in which the material is expected to be recycled, and when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangement for recycling);

b. The reason that the applicant has accumulated the material for one or more years without recycling 75% of the volume accumulated at the beginning of the year;

c. The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

d. The extent to which the material is handled to minimize loss;

e. Other relevant factors.

2. The executive director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

a. How economically viable the production process would be if it were to use virgin materials, rather

Final Regulations

than reclaimed materials;

b. The prevalence of the practice on an industry-wide basis;

c. The extent to which the material is handled before reclamation to minimize loss;

d. The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

e. The location of the reclamation operation in relation to the production process;

f. Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

g. Whether the person who generates the material also reclaims it; and

h. Other relevant factors.

3. The executive director may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but shall be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

a. The degree of processing the material has undergone and the degree of further processing that is required;

b. The value of the material after it has been reclaimed;

c. The degree to which the reclaimed material is like an analogous raw material;

d. The extent to which an end market for the reclaimed material is guaranteed;

e. The extent to which the reclaimed material is handled to minimize loss; and

f. Other relevant factors.

4. The executive director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused in applications involving placement into land. This determination will be based on the following factors:

a. How economically advantageous is the utilization

process using reclaimed materials compared to the virgin materials;

b. The prevalence of the practice on an industry-wide basis;

c. The extent to which the material is handled before reclamation to minimize loss;

d. The location of the generating and reclamation operations in relation to the utilization process;

e. The chemical and physical characteristics of the material prior and after the reclamation process;

f. An estimate of the rate of annual usage of the reclaimed material;

g. Whether the person who generates the material also reclaims it;

h. Proximity of emplaced materials to ground and surface waters; and

i. Other factors relevant to public health and the environment.

§ 10.3. Variances from requirements.

A. Application and conditions.

The executive director may grant a variance from any regulation herein, except those contained in § 10.1.B, to a permittee if the permittee demonstrates to the satisfaction of the executive director that:

a. Strict application of the regulation to the facility will result in undue hardship that is unique to the applicant's particular situation; or

b. Technical conditions exist that make a strict application of the regulation impossible to achieve; and

2. Granting the variance will not result in an unreasonable risk to the public health or the environment.

B. Effects of the decisions.

1. When the executive director renders a decision under § 10.3 in accordance with the procedures contained in § 10.5, he may:

a. Deny the petition;

b. Grant the variance as requested; or

c. Grant a modified or partial variance.

2. When a modified variance is granted, the executive

director may:

- a. Specify the termination date of the variance;
- b. The executive director may include a schedule for:
 - (1) Compliance, including increments of progress, by the facility with each requirement of the variance; and
 - (2) Implementation by the facility of such control measures as the executive director finds necessary in order that the variance may be granted.

§ 10.4. Rulemaking petitions.

A. Applicability.

Any person may petition the executive director to append, modify, or revoke any provision of these regulations.

B. The petitioner should submit all relevant information shown in § 10.5.A.1. The executive director will proceed with the processing of the petition in accordance with § 10.5.B. The final decision will be rendered by the Virginia Waste Management Board.

§ 10.5. Administrative procedures.

A. Submission of petition.

1. General petitioning requirements. The petition shall be submitted to the executive director by certified mail and shall include:

- a. The petitioner's name and address;
- b. A statement of petitioner's interest in the proposed action;
- c. A description of desired action and a citation to the regulation from which a variance is requested;
- d. A description of need and justification for the proposed action;
- e. The duration of the variance, if applicable;
- f. The potential impact of the variance on public health or the environment;
- g. Other information believed by the applicant to be pertinent; and
- h. The following statements signed by the petitioner or his authorized representative, if applicable:

"I certify that I have personally examined and am familiar with the information submitted in this

petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

2. Additional requirements for petitions under § 10.2. In addition to the general information required of all petitioners under § 10.5.A.1:

a. To be successful the petitioner shall address the applicable standards and criteria listed in § 10.2.C.

b. For petitions submitted under § 10.2.B.4 following addition and annual quantities of waste covered by the petition;

(2) A description of the methodologies and equipment used to obtain representative samples and analyses, to include:

(a) The name and address of the laboratory facility performing the sampling on tests of the waste, if different from that of the petitioner;

(b) The qualifications of the persons sampling and testing the wastes;

(c) The dates of sampling and testing;

(d) A description of sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of samples; and

(e) A description of the tests performed and the results obtained.

(3) The description of the reclamation processes.

3. Additional requirements for petitions under § 10.3. In addition to the general information required of all petitioners under § 10.5.A.1, the petitioner shall submit:

a. An explanation of the applicant's particular situation which prevents the facility from achieving compliance with the cited regulation;

b. Other information as may be required by the department.

B. Petition processing.

1. After receiving a petition that includes the information required in § 10.5.A, the executive director will determine whether the information received is sufficient to render the decision. If the

Final Regulations

information is deemed to be insufficient, the executive director will specify additional information needed and request that it be furnished.

2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for the request for additional information. If the executive director agrees that no reasonable basis exists for the request for additional information, he will act in accordance with § 10.5.B.3. If the executive director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action in accordance with the Virginia Administrative Process Act (VAPA).

3. After the petition is deemed complete:

a. The executive director will make a tentative decision to grant or deny the petition;

b. In case that petition may be tentatively denied, the executive director will offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the executive director to proceed with the evaluation;

c. Unless the petition is withdrawn, the executive director will issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the applicant is located. The executive director will accept comment on the tentative decision for 30 days.

d. Upon a written request of any interested person, the executive director may, at his discretion, hold an informal fact finding meeting described in Article 3, Virginia Administrative Process Act. A person requesting a hearing shall state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The executive director may in any case decide on his own motion to hold such a meeting.

e. After evaluating all public comments the executive director will:

(1) In case of general rulemaking petitions (§ 10.4), formulate and submit a recommendation to the Virginia Waste Management Board; or

(2) In case of all other petitions:

(a) Within 15 days after the expiration of the comment period, notify the applicant of the final decision; and

(b) Publish it in a newspaper having circulation in the locality.

C. Petition resolution.

1. In the case of a denial, the petitioner has a right to request a formal hearing to challenge the rejection.

2. If the executive director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the executive director that the petitioner has failed to comply with any variance requirements.

EMERGENCY REGULATIONS

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-02-01. Emergency Amendment to the Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock in Virginia Establishing Disease Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Effective Dates: November 2, 1989 through November 1, 1990

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 it is necessary to expand the base of disease reporting entities to include not only veterinary practitioners but also livestock and poultry owners and diagnostic laboratories pursuant to Sections 3.1-724 and 3.1-726 of the Code of Virginia (1950), as amended. It is also necessary to provide for authority to require reporting of diseases of poultry, something not required by existing regulation. For reasons detailed below, there is not sufficient time to promulgate a regulation through ordinary means under the Administrative Process Act. Without a regulation it is not possible to collect the data needed for the epidemiologic study of diseases affecting livestock and poultry in Virginia.

The collection of infectious and contagious disease data is of vital importance to epidemiologists in developing sound livestock and poultry disease control and eradication programs. These programs are the basis for herd and flock management methods and service to maintain viable and growing livestock and poultry industries in Virginia.

There is a need for this amendment to current regulations. A fuller regulation will be developed, and that regulation will supersede the present, proposed emergency regulation.

VR 115-02-01. Emergency Amendment to the Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock in Virginia Establishing Disease Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia.

§ 1. Normal Reporting.

Any person practicing veterinary medicine, any person or firm operating a laboratory for the diagnosis of livestock or poultry diseases, and any other reporting entity designated by the State Veterinarian within the Commonwealth of Virginia shall, between the first and tenth day of each month for the month preceding, report in writing to the State Veterinarian the existence of those contagious or infectious diseases among livestock that normally are required to be reported by the State Veterinarian. Such reports shall be on forms furnished by the State Veterinarian and shall be submitted as required, and poultry known to him listed on Schedule B of form VDACS-03016 (8/87), "Reportable Diseases of Livestock and Poultry."

§ 2. Special Reporting.

Any person practicing veterinary medicine, any person or firm operating a laboratory for the diagnosis of livestock or poultry diseases, and any other reporting entity designated by the State Veterinarian, within the Commonwealth of Virginia shall report within 24 hours by telephone to the State Veterinarian: (1) the existence of anthrax, glanders, or any vesicular or exotic disease or any other disease of among livestock or poultry known to him listed on Schedule A of form VDACS-03016 (8/87), "Reportable Diseases of Virginia Livestock and Poultry"; and (2) the existence of any disease of poultry listed on Schedule A of form VDACS-03016 (8/87), "Reportable Diseases of Virginia Livestock and Poultry." If for any reason the State Veterinarian is not immediately available by telephone, such report shall be made directly to any veterinarian in the employ with of the Commonwealth of Virginia.

Forms to be implemented:

VDACS-03016 (8/87)

/s/ S. Mason Carbaugh
Commissioner

Virginia Department of Agriculture and Consumer Services
Date: September 28, 1989

/s/ Curry A. Roberts
Secretary of Economic Development
Date: September 29, 1989

/s/ Gerald L. Baliles
Governor
Date: November 2, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: November 2, 1989

REPORTABLE DISEASES OF VIRGINIA LIVESTOCK AND POULTRY
(Foreign and Domestic)

Reportable diseases are those diseases listed herein that have or may potentially have major economic importance for the livestock and poultry industries of Virginia, and for which the State Veterinarian has determined that reporting their presence is necessary to eradicate or control them. Any person practicing veterinary medicine in the Commonwealth and any other reporting entity specified by the State Veterinarian shall report a laboratory or clinically diagnosed case of any of the diseases listed herein to the State Veterinarian. Reports of diseases listed herein under **SCHEDULE A** shall be made **BY TELEPHONE WITHIN 24 HOURS OF DIAGNOSIS**. Diseases listed under **SCHEDULE B** may also be reported by telephone or be reported on this form and mailed to the **STATE VETERINARIAN**, Virginia Department of Agriculture and Consumer Services, Washington Building, Suite 600, 1100 Bank Street, Richmond, VA 23219-9958. Reports made under **SCHEDULE B** should be made between the 1st and 10th of each month for the month preceding. A **TOLL-FREE TELEPHONE** having the number **1-800-342-3124** and a **SELF-ADDRESSED STAMPED ENVELOPE** are provided for your convenience.

A	MONTH
	1 2 3 4 5 6 7 8 9 0
B	YEAR
	0 1 2 3 4 5 6 7 8 9
	0 1 2 3 4 5 6 7 8 9
C	ENTITY
	0 1 2 3 4 5 6 7 8 9
	0 1 2 3 4 5 6 7 8 9

GENERAL INSTRUCTIONS

- A. MONTH**
Circle the digit or digits that identify the month reported upon. For example, if the report is made in April, the fourth month, circle the "4." If the report is made for November, the eleventh month, circle each of the "1's" as a means of expressing the number "11."
- B. YEAR**
Circle the two digits constituting the last two digits of the calendar year in which the report is made. For "1989," for example, circle "8" on the top line and "9" on the second line.
- C. ENTITY**
Circle the three digits constituting your assigned entity code, with the first digit of the code entered on the top line, the second digit on the second line, and the third digit on the third line.
- D. CODE/DISEASE**
Make no entries here; however, for the diseases listed in this column, enter the required information in columns E through K.
- E. DIAG (Diagnosis)**
Circle "C" (for "clinical diagnosis") or "L" (for "laboratory diagnosis").
- F. CASES**
Circle the digit that represents the number of animals infected. If more than nine animals were infected, write the number infected in column G. If cases are more than nine, write in number.
- H. HERDS/FLOCKS**
Circle the digit that represents the number of herds or flocks infected. If more than nine herds or flocks were infected, write the number in column J.
- J. If Herds/Flocks are more than nine, write in the number.**
- K. CITY/COUNTY**
Write the name of the city or county in which the disease was found.
NOTE: If no reportable diseases are diagnosed during reporting period, please submit a negative report.

SCHEDULE A
(Report within 24 hours of diagnosis by telephone)
ITALICIZED TYPE INDICATES FOREIGN ANIMAL DISEASE

D	E	F	G	H	J	K
CODE/DISEASE	DIAG	CASES		HERDS/FLOCKS		CITY/COUNTY
A1. CATTLE DISEASES						
A1.1	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.2	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.3	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.4	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.5	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.8	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.7	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.8	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.9	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.10	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.11	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.12	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.13	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.14	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.15	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.16	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.17	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.18	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A1.19	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		

VDACS-03016 (8/87)

SCHEDULE A (cont'd)
(Report within 24 hours of diagnosis by telephone)
ITALICIZED TYPE INDICATES FOREIGN ANIMAL DISEASE

D	E	F	G	H	J	K
CODE/DISEASE	DIAG	CASES		HERDS/FLOCKS		CITY/COUNTY
A2. GOAT DISEASES						
A2.1	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.2	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.3	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.4	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.5	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.6	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.7	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.8	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.9	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A2.10	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3. HORSE DISEASES						
A3.1	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.2	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.3	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.4	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.5	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.6	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.7	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.8	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.9	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.10	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.11	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A3.12	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A4. LLAMA DISEASES						
A4.1	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A4.2	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A4.3	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A4.4	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A4.5	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5. POULTRY DISEASES						
A5.1	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.2	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.3	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.4	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.5	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.6	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.7	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.8	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		
A5.9	<i>C L</i>	1 2 3 4 5 6 7 8 9		1 2 3 4 5 6 7 8 9		

SCHEDULE B (con't.)
(Report between the 1st and 10th of each month by mail or telephonic)

D	CODE/DISEASE	E	DIAG	F	G	H	HERDS/FLOCKS	J	K
82.	GOAT DISEASES	82.1	Caseous lymphadenitis	C L	123456789		123456789		
		82.2	Caseous arthritis & encephalitis	C L	123456789		123456789		
		82.3	Listeriosis	C L	123456789		123456789		
		82.4	Paratuberculosis	C L	123456789		123456789		
83.	HORSE DISEASES	83.1	Botulism	C L	123456789		123456789		
		83.2	Equine influenza	C L	123456789		123456789		
		83.3	Equine encephalomyelitis	C L	123456789		123456789		
		83.4	Equine viral arteritis	C L	123456789		123456789		
		83.5	Equine herpes fever	C L	123456789		123456789		
		83.6	Strangles	C L	123456789		123456789		
		83.7	Foal Diarrhea (nonspecific)	C L	123456789		123456789		
84.	LLAMA DISEASES	84.1	Anthraxosis	C L	123456789		123456789		
		84.2	Bluetongue	C L	123456789		123456789		
		84.3	Lepidopteros	C L	123456789		123456789		
		84.4	Lameness	C L	123456789		123456789		
		84.5	Paratuberculosis	C L	123456789		123456789		
85.	POULTRY DISEASES	85.1	Avian leukosis	C L	123456789		123456789		
		85.2	Avian Tuberculosis	C L	123456789		123456789		
		85.3	Fowl cholera	C L	123456789		123456789		
		85.4	Mycoplasma meleagridis	C L	123456789		123456789		
		85.5	Mycoplasma synoviae	C L	123456789		123456789		
		85.6	Salmonella enteritidis	C L	123456789		123456789		
86.	SHEEP DISEASES	86.1	Bluetongue	C L	123456789		123456789		
		86.2	Caseous lymphadenitis	C L	123456789		123456789		
		86.3	Contagious scabium	C L	123456789		123456789		
		86.4	Foot rot	C L	123456789		123456789		
		86.5	Infectious keratitis	C L	123456789		123456789		
		86.6	Lameness	C L	123456789		123456789		
		86.7	Paratuberculosis	C L	123456789		123456789		
87.	SWINE DISEASES	87.1	Alcoholic myositis	C L	123456789		123456789		
		87.2	Encephalitis	C L	123456789		123456789		
		87.3	Infarctia	C L	123456789		123456789		
		87.4	Lepidopteros	C L	123456789		123456789		
		87.5	Porcineus	C L	123456789		123456789		
		87.6	Swine fever	C L	123456789		123456789		
		87.7	Transmissible gastroenteritis	C L	123456789		123456789		
		87.8	Tuberculosis	C L	123456789		123456789		

SCHEDULE A (con't.)
(Report within 24 hours of diagnosis by telephone)
ITALICIZED TYPE INDICATES FOREIGN ANIMAL DISEASE

D	CODE/DISEASE	E	DIAG	F	G	H	HERDS/FLOCKS	J	K
A6.	SHEEP DISEASES	A6.1	African trypanosomiasis	C L	123456789		123456789		
		A6.2	Brucellosis	C L	123456789		123456789		
		A6.3	Foot and mouth disease	C L	123456789		123456789		
		A6.4	Haemorrhagic disease	C L	123456789		123456789		
		A6.5	Melioidosis	C L	123456789		123456789		
		A6.6	Rift Valley fever	C L	123456789		123456789		
		A6.7	Rhodopox	C L	123456789		123456789		
		A6.8	Scabies	C L	123456789		123456789		
		A6.9	Scrape	C L	123456789		123456789		
		A6.10	Tuberculosis	C L	123456789		123456789		
		A6.11	Vascular stomatitis	C L	123456789		123456789		
A7.	SWINE DISEASES	A7.1	African swine fever	C L	123456789		123456789		
		A7.2	Brucellosis	C L	123456789		123456789		
		A7.3	Foot and mouth disease	C L	123456789		123456789		
		A7.4	Hog cholera	C L	123456789		123456789		
		A7.5	Japanese B encephalitis	C L	123456789		123456789		
		A7.6	Pseudotuberculosis	C L	123456789		123456789		
		A7.7	Vascular stomatitis	C L	123456789		123456789		
		A7.8	Vascular exanthema	C L	123456789		123456789		

SCHEDULE B
(Report between the 1st and 10th of each month by mail or telephonic)

D	CODE/DISEASE	E	DIAG	F	G	H	HERDS/FLOCKS	J	K
81.	CATTLE DISEASES	81.1	Anthraxosis	C L	123456789		123456789		
		81.2	Bluetongue	C L	123456789		123456789		
		81.3	Bluetongue	C L	123456789		123456789		
		81.4	Bovine viral diarrhoea	C L	123456789		123456789		
		81.5	Infectious bovine rhinotracheitis	C L	123456789		123456789		
		81.6	Infectious keratitis	C L	123456789		123456789		
		81.7	Lepidopteros	C L	123456789		123456789		
		81.8	Listeriosis	C L	123456789		123456789		
		81.9	Lymphosarcoma	C L	123456789		123456789		
		81.10	Malignant edema	C L	123456789		123456789		
		81.11	Paratuberculosis	C L	123456789		123456789		

Emergency Regulations

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-02-07. Emergency Amendment to the Rules and Regulations Pertaining to the Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia Establishing Testing Requirements for Salmonella Enteritidis.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Effective Dates: November 2, 1989 through November 1, 1990

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 Salmonella enteritidis is a contaminant of table eggs and as such can be a public health hazard and is subject to regulation pursuant to §§ 3.1-724 and 3.1-726 of the Code of Virginia (1950), as amended. For reasons detailed below, there is not sufficient time to promulgate a regulation through ordinary means under the Administrative Process Act. Without a regulation, other states will prohibit the importation of table eggs from Virginia with resultant loss of markets for Virginia eggs.

Salmonella enteritidis can cause serious illness and death in humans, especially among the very young, the elderly, and immunosuppressed people. Salmonella enteritidis outbreaks in people have occurred in Virginia, and the consumption of raw eggs was incriminated in these outbreaks. Interstate markets for Virginia eggs will close if any approved method for testing for the organism in laying hens is not inaugurated. Maryland, New York, and Pennsylvania are initiating or have initiated similar measures. The standards being adopted by these states center on a model program recently established by the National Poultry Improvement Plan, U.S. Department of Agriculture.

There is a need for this amendment to the current regulation. A fuller regulation will be developed, and that regulation will supersede the present, proposed emergency regulation.

VR 115-02-07. Emergency Amendment to the Rules and Regulations Pertaining to the Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia Establishing Testing Requirements for Salmonella Enteritidis.

§ 1. Definitions.

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

"Baby poultry" means newly hatched poultry (chicks, poults, ducklings, goslings, keets, etc.) that have not been fed or watered.

"Commercial laying flock" means any flock of chickens that is used for the production of eggs for food purposes.

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

"Flock" means all of the poultry on one premises, except that, at the discretion of the department, any group of poultry which is segregated from other poultry and has been so segregated for a period of at least 21 days may be considered as a separate flock.

"Fowl typhoid" or "typhoid" means an infectious and contagious disease of poultry caused by Salmonella gallinarum.

"Hatchery" means incubators, hatchers, and auxiliary equipment on one premises operated and controlled for the hatching of poultry.

"Hatching eggs" means fertile eggs used to produce poultry.

"Multiplier flock" means a flock of chickens that is used for the purpose of producing progeny for commercial egg production or other non-breeding purposes.

"Person" means any person, firm, or corporation.

"Poultry" means live fowl, including chickens, turkeys, waterfowl, and game birds, which are propagated and maintained under the control of any person.

"Products" means poultry breeding stock and hatching eggs, baby poultry, and started poultry.

"Pullorum disease or pullorum" means an infectious and contagious disease of poultry caused by Salmonella pullorum.

"Salmonella enteritidis" means the species of Salmonella that can be a contaminant of raw eggs and that can be harmful to humans.

"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.

"Started poultry" means young poultry (chicks, pullets,

Emergency Regulations

cockerels, capons, poult, ducklings, goslings, keets, etc.) that have been fed and watered, and are less than six months of age.

§ 2. Authority.

Authority for the control and eradication of pullorum and typhoid in poultry in the Commonwealth of Virginia is hereby vested in the State Veterinarian. It shall be the function, power and duty of the State Veterinarian to administer the following provisions:

A. All poultry hatcheries and hatchery supply flocks within the Commonwealth of Virginia must qualify as U.S. Pullorum-Typhoid Clean or meet equivalent requirements for pullorum-typhoid control under supervision of the State Veterinarian.

B. All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent into the Commonwealth of Virginia are prohibited.

C. Whenever a veterinarian or other person performing poultry disease diagnostic services has knowledge or reason to suspect that pullorum or typhoid exists in a poultry flock or hatchery, he shall give notice of such fact to the State Veterinarian within 48 24 hours.

D. Upon receipt of a report of pullorum or typhoid in poultry, the State Veterinarian shall direct an immediate investigation by an authorized representative to determine the origin and avenue of transmission of the infection.

E. Flocks deemed to be infected with pullorum or typhoid shall be quarantined by the State Veterinarian. Quarantined flocks or any portion thereof shall not be removed from the premises where the infection was detected, except with the written permission of the State Veterinarian.

F. All poultry shown in public exhibitions in the Commonwealth of Virginia shall originate from U.S. Pullorum-Typhoid Clean or equivalent flocks or have had a negative pullorum-typhoid test within 90 days of the movement to the public exhibition.

G. Any person who owns or raises any commercial laying flock or any multiplier flock shall take specimens from a representative sample of each flock for testing by the State Veterinarian for *Salmonella enteritidis* no more than 30 days prior to slaughter, unless the person chooses an earlier date for testing. Such testing shall conform to sampling and testing procedures specified by the National Poultry Improvement Plan (9 CFR Section 145.1 through 145.54).

§ 3. Poultry flock requirements.

All poultry flocks from which hatching eggs are set in any Virginia hatchery must be in compliance with the current pullorum-typhoid provisions of the National Poultry

Improvement Plan. (9 CFR, §§ 145.1 through 145.54).

/s/ S. Mason Carbaugh
Commissioner
Virginia Department of Agriculture and Consumer Services
Date: September 28, 1989

/s/ Curry A. Roberts
Secretary of Economic Development
Date: September 29, 1989

/s/ Gerald L. Baliles
Governor
Date: November 2, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: November 2, 1989

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-02-17. Emergency Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases.

Statutory Authority: § 3.1-724 and 3.1-726 of the Code of Virginia.

Effective Dates: November 2, 1989 through November 1, 1990

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 it is necessary to develop and maintain a poultry disease monitoring regulation pursuant to §§ 3.1-724 and 3.1-726 of the Code of Virginia (1950), as amended. For reasons detailed below, there is not sufficient time to promulgate a regulation through ordinary means under the Administrative Process Act. Without a regulation, the testing required for a poultry disease monitoring program cannot be performed.

The early detection of infectious and contagious diseases of poultry is paramount to the welfare of the poultry industry in Virginia. The statistical sampling and testing of poultry from a representative number of geographical locations in the Commonwealth will provide data needed to establish more responsive disease monitoring and control programs. The type of information that can be obtained from this approach to disease monitoring will be invaluable in protecting Virginia's poultry from losses that might be incurred

Emergency Regulations

in future disease outbreaks.

Under the program established by this regulation, the State Veterinarian shall institute and maintain a monitoring program for the detection and diagnosis of avian influenza, exotic Newcastle disease, pullorum disease, fowl typhoid and any other infectious and/or contagious disease of poultry governed by § 3.1-726 of the Code of Virginia (1950), as amended, as he deems appropriate for the maintenance of a healthy poultry population in Virginia. The elements of the program shall include:

A. The submission and analysis of specimens as required by § 3 of this regulation, and

B. Monitoring of flocks identified as those with more than one different avian species, which shall include the collection and analysis of specimens.

In addition, the State Veterinarian shall conduct monitoring of migrating water fowl if or when he has reason to believe that such water fowl may infect Virginia poultry. In conducting such monitoring, the State Veterinarian or his representative shall collect specimens for analysis and shall take such other reasonable measures to keep infected water fowl from infecting Virginia poultry.

There is an immediate need for a regulation to establish this program in Virginia. A fuller regulation will be developed, and that regulation will supersede this present, proposed emergency regulation.

VR 115-02-17. Emergency Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases.

§ 1. Definitions.

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

"Avian influenza" means any one of several infections or disease syndromes in avian species caused by Type A influenza viruses of the Orthomyxovirus group.

"Broiler breeder" means a chicken used to supply fertile eggs to hatcheries for the production of broilers.

"Broiler" means a chicken that is grown exclusively for food purposes.

"Backyard flock" means a flock of fewer than 500 birds maintained on private premises for the sole use of the owner.

"Commercial toms and hens" means immature male and female turkeys that are grown to market size for food purposes.

"Cockerel" means a young male chicken.

"Confined wild birds" means any live wild fowl which are confined by means of pens or other structures, or which are pinioned, and includes their offspring which are regulated by State or Federal permits.

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

"Exotic Newcastle disease" means the velogenic or viscerotropic form of the disease of poultry caused by the Newcastle Disease Virus (NDU) of the Paramyxovirus group.

"Flock" means all of the poultry on one premises, except that, at the discretion of the Department, any group of poultry which is segregated from other poultry and has been so segregated for a period of at least 21 days may be considered as a separate flock.

"Fowl typhoid" means an infection of poultry caused by *Salmonella gallinarum*.

"Game farm" means any location where a variety of avian species such as waterfowl, pheasant, quail, peafowl, etc. are congregated or raised individually or otherwise.

"Grower of poultry" means any person, including an employee, agent or independent contractor, who grows, raises, or keeps poultry for himself or for another.

"Hatchery" means incubators, hatchers, and auxiliary equipment on one premises operated and controlled for the hatching of poultry.

"Layers" means chicken that produce eggs for food purposes.

"Owner" means any person or firm that owns poultry.

"Person" means any person, firm, partnership, corporation, or institution.

"Poultry" means live fowl, including chickens, turkeys, waterfowl, and game birds, which are propagated and maintained under the control of any person.

"Poults" means young turkeys.

"Pullets" means young female chickens.

"Pullorum disease" means an infection of poultry caused by *Salmonella pullorum*.

"Small privately owned layer flocks" means any flock of fewer than 500 birds that is used to produce eggs for food purposes and is privately owned.

"Specimens" means samples, including but not limited to samples of blood, tissue, eggs, and swabs, as well as

samples taken from the environment in which a bird lives.

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

"Slaughter birds" means any birds that are slaughtered at establishments that have been issued a grant of inspection by the U.S. Department of Agriculture, Food Safety Inspection Service or by the Department.

"Turkey breeders" means turkeys that are used to supply fertile eggs to hatcheries for the production of commercial toms and hens.

§ 2. Inventory.

Any person governed by § 3 of this regulation shall disclose to the State Veterinarian within 10 days of his request the number in each classification identified in subsections D and E of § 3.

§ 3. Specimen submissions.

A. All growers of poultry shall submit to the State Veterinarian, or his designated representative, specimens from poultry they grow, as specified in subsection C of this section.

B. All persons operating slaughtering plants, egg plants, hatcheries, layer houses, or any other poultry-raising, poultry-keeping or poultry-handling endeavor shall also submit such specimens from poultry they grow, handle, or process, as specified in subsection C of this section.

C. Specimens from poultry submitted pursuant to subsections A and B of this section for laboratory analysis shall be for diseases governed by § 3.1-726, Code of Virginia (1950), as amended, in the number and kind and at the time as designated by the State Veterinarian.

D. Specimens that are required for laboratory testing to detect infectious and contagious diseases of poultry shall be submitted as directed by the State Veterinarian from the following classes of poultry.

1. Chickens
 - a. Slaughter birds
 - b. Broiler breeders
 - c. Layers
 - d. Layer breeders
 - e. Broilers
 - f. Pullets

g. Cockerels

h. Game birds

2. Turkeys

a. Slaughter birds

b. Turkey breeders

c. Commercial toms and hens

d. Poult

E. Specimens that are required for laboratory testing to detect infectious and contagious diseases shall be submitted as directed by the State Veterinarian from the following:

1. Exhibition birds;
2. Birds from small privately owned layer flocks;
3. Birds on game farms; and
4. Birds in backyard flocks.

/s/ S. Mason Carbaugh
Commissioner
Virginia Department of Agriculture and Consumer Services
Date: September 28, 1989

/s/ Curry A. Roberts
Secretary of Economic Development
Date: September 29, 1989

/s/ Gerald L. Baliles
Governor
Date: November 2, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: November 2, 1989

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-02-18. Emergency Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Effective Dates: November 2, 1989 through November 1, 1990

Preamble:

The Board of Agriculture and Consumer Services finds that it is necessary to develop and maintain regulations for the disposal of entire flocks of dead

Emergency Regulations

poultry pursuant to § 3.1-726 of the Code of Virginia (1950), as amended. In instances in which less than the entire flock is to be disposed of, § 3.1-742 et seq. of the Code, Disposal of Dead Poultry, shall govern. For reasons detailed below, there is not sufficient time to promulgate a regulation through ordinary means under the Administrative Process Act.

The occurrence of diseases such as avian influenza among poultry can and often does result in large numbers of dead birds. Many of the birds die as a consequence of disease itself. Others are humanely destroyed as a means of being rid of the virus they carry, which they could otherwise spread to healthy birds. Large numbers of dead, disease-laden bird carcasses require sanitary and proper disposal so as not to contaminate the environment and so as to assure that disease is not further spread. These emergency regulations take the first step in prescribing such methods.

A fuller regulation will be developed, and that regulation will supersede the present, proposed emergency regulation. Such a measure is important to assure the health of Virginia poultry and the long-term health of Virginia's poultry industry.

VR 115-02-18. Emergency Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry.

§ 1. Definitions.

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

"Dead poultry" means poultry, exclusive of those intentionally slaughtered for food, which die or are destroyed as a result of a contagious and infectious disease upon any premises in the State.

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

"Disposal" means the complete destruction of dead poultry in an incinerator or their proper disposition in a disposal pit.

"Disposal pit" means an opening dug in the ground at least 6 1/2 feet wide, 6 feet long and 9 feet deep, containing a minimum capacity of 350 cubic feet, covered with a minimum of 36 inches of dirt, and provided with one or more openings for the introduction of poultry therein, said openings to be a minimum size of 8 inches square and equipped with tight lids.

"Flock" means all of the poultry on one premises, except that, at the discretion of the department, any group of poultry which is segregated from other poultry and has been so segregated for a period of at least 21 days may be considered as a separate flock.

"Incinerator" means a firebox constructed of masonry or metal in which dead poultry is burned by the use of fuel.

"Infectious and contagious disease" means, but is not limited to, avian influenza, exotic Newcastle disease, and laryngotracheitis.

"Off-farm incinerator" means an incinerator not located on any premises where poultry is raised or kept.

"Person" means any person, firm, partnership, corporation, or institution which engages in the raising or keeping of poultry for profit in this State.

"Poultry" means all chickens, ducks, turkeys or other domestic fowls being raised or kept on any premises in the State for profit.

"Premises" means the entire tract of land, including but not limited to the buildings thereon, owned, leased or used by any person for the raising or keeping of poultry for profit.

"Raising or keeping of poultry for profit" means the raising or keeping of five hundred or more poultry at one time for the purpose of sale of such poultry or the eggs produced therefrom.

§ 2. Applicability.

These regulations shall govern the disposal of dead birds by persons who raise or keep poultry for profit or who have entered into a contract for the raising or keeping of poultry for profit, but only when the entire flock is to be depopulated or when the entire flock dies. In instances in which less than the entire flock is to be disposed of, § 3.1-742 et seq. of the Code, Disposal of Dead Poultry, shall govern.

§ 3. Disposal pits or incinerators required of persons raising or keeping poultry for profit.

A. It shall be unlawful for any person to engage in the raising or keeping of poultry for profit on any premises within the Commonwealth of Virginia, or to enter into a contract involving the raising or keeping of poultry for profit with any other person, unless the premises upon which such poultry is to be raised or kept is provided with:

1. A disposal pit; or
2. An incinerator.

B. Provisions governing disposal pits.

1. If possible, an area away from public view should be selected.
2. No person engaged in the raising or keeping of poultry for profit and no person who has entered into

Emergency Regulations

a contract involving the raising or keeping of poultry for profit with any other person shall construct or use a disposal pit unless it is sufficient to dispose of all dead poultry on his premises. The disposal pit shall have the capability of being increased in length and width to dispose of the entire flock of poultry raised or kept on the premises at any time.

3. Any person engaged in the raising or keeping of poultry for profit and any person who has entered into a contract involving the raising or keeping of poultry for profit with any other person shall, before using a disposal pit, obtain approval for its use as required by state law.

C. Provisions governing incinerators.

1. If possible, an area away from public view should be selected.

2. No person engaged in the raising or keeping of poultry for profit and no person who has entered into a contract involving the raising or keeping of poultry for profit with any other person shall construct or use an incinerator of masonry or metal and has the capacity to burn within a 24-hour period all poultry raised or kept on the premises at any time.

3. Any person engaged in the raising or keeping of poultry for profit and any person who has entered into a contract involving the raising or keeping of poultry for profit with any other person shall, before using an incinerator on his premises to dispose of birds, obtain approval for its use as required by state law.

§. 4. Exemption.

A. The State Veterinarian shall exempt from the provisions of § 3 of this regulation persons who have entered into a bona fide contract with an approved disposal service or rendering plant; provided that the holding of such dead poultry pending pick up and its transportation by an approved disposal service, to a rendering plant, or to an off-farm incinerator shall be subject to the following requirements:

1. Rendering plants.

a. No person may transport dead poultry to a rendering plant except in leak-proof containers and leak-proof trucks.

b. No person may transport dead poultry to a rendering plant unless the dead poultry is enclosed in the transporting vehicle so that feathers and other debris will not be released into the environment.

c. No person may transport dead poultry to a rendering plant unless:

(1) The containers are disinfected prior to loading on the truck and the loaded truck disinfected prior to leaving the farm premises; and

(2) The truck is cleaned and disinfected after unloading at the rendering plant and prior to leaving the rendering plant premises.

2. Landfills.

a. No person may transport dead poultry from a farm premises to a landfill except in leak-proof containers and leak-proof trucks.

b. No person may transport dead poultry from a farm premises to a landfill unless the dead poultry is enclosed in the transporting vehicle so that feathers and other debris will not be released into the environment.

c. No person may transport dead poultry from a farm premises to a landfill unless:

(1) The containers are disinfected prior to loading on the truck and the loaded truck disinfected prior to leaving the farm premises; and

(2) The truck is cleaned and disinfected after unloading at the landfill and prior to leaving the landfill premises.

3. Off-farm incinerators.

a. No person may transport dead poultry from a farm premises to an off-farm incinerator except in leak-proof containers and leak-proof trucks.

b. No person may transport dead poultry from a farm premises to an off-farm incinerator unless the dead poultry is enclosed in the transporting vehicle so that feathers and other debris will not be released into the environment.

c. No person may transport dead poultry from a farm premises to an off-farm incinerator unless:

(1) The containers are disinfected prior to loading on the truck and the loaded truck disinfected prior to leaving the farm premises; and

(2) The truck is cleaned and disinfected after unloading at the off-farm incinerator and prior to leaving the off-farm incinerator premises.

B. The provisions of subsection A of this section notwithstanding, no person may transport any dead poultry from any premises without the prior approval, granted by permit on a case-by-case basis, by the State Veterinarian or his representative.

§ 5. Plans for disposal of dead poultry.

Emergency Regulations

A. No person shall engage in the raising or keeping of poultry for profit and no person shall enter into a contract involving the raising or keeping of poultry for profit with any other person unless he files with the State Veterinarian a plan, embracing at a minimum provisions consistent with the requirements of this regulation for the disposal of an entire flock of dead poultry.

B. Any person engaged in the raising or keeping of poultry for profit and any person who has entered into a contract involving the raising or keeping of poultry for profit with any other person shall file with the State Veterinarian an interim plan and schedule for its implementation no later than November 1, 1989.

C. No person may implement the plan or any amendment to it until it is approved by the State Veterinarian.

/s/ S. Mason Carbaugh
Commissioner
Virginia Department of Agriculture and Consumer Services
Date: September 28, 1989

/s/ Curry A. Roberts
Secretary of Economic Development
Date: September 29, 1989

/s/ Gerald L. Baliles
Governor
Date: November 2, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: November 2, 1989

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 6, 1989

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Case No. PUC890042

Ex Parte: In the matter of abolishing the Rules Governing the Certification of Radio Common Carriers adopted pursuant to Virginia Code § 56-508.6 and the Rules Governing Establishment of Competitive Rates, Charges, and Regulations Pursuant to Virginia Code § 56-508.5B, and adopting new Rules Governing Radio Common Carrier Services

ORDER ESTABLISHING RULEMAKING PROCEEDING, DIRECTING PUBLIC NOTICE, AND INVITING COMMENTS

By order dated September 27, 1984, entered in Case No. PUC840029, this Commission adopted Rules Governing The Certification of Radio Common Carriers pursuant to Virginia Code § 56-508.6. These rules were intended to allow consideration and approval, if appropriate, of all applications for a certificate to operate in, or to extend existing operations into, an established service area of another certificated radio common carrier.

By order dated August 25, 1986, entered in Case No. PUC860003, this Commission adopted Rules Governing Establishment of Competitive Rates, Charges, and Regulations Pursuant to Virginia Code § 56-508.5B. Section 56-508.5B provided, in part, "If ... (the Commission) determines that radio common carrier service will be provided on a competitive basis, ... [it] may approve rates, charges, and regulations as it may deem appropriate for any public service company furnishing competitive service, provided such rates, charges, and regulations are nondiscriminatory and in the public interest...."

The Commission is of the opinion that both of the foregoing sets of rules should be carefully reviewed because of the subsequent expansion and intensification of competition within the radio common carrier industry and also because of the Commission's implementation of the Virginia Experimental Plan in Case No. PUC880035. In that case, the Commission allowed pricing flexibility and eliminated tariff filing requirements for those radio common carrier services authorized to be provided by Virginia's five large local exchange telephone companies. This occurred after the Commission determined that radio common carrier services are classified as "actually competitive" as defined in the Experimental Plan.

It is the Commission's tentative conclusion that the Rules

Governing Certification of Radio Common Carriers (adopted pursuant to Virginia Code § 56-508.6) and the Rules Governing Establishment of Competitive Rates, Charges, and Regulations Pursuant to Virginia Code § 56-508.5B should be abolished entirely and that new Rules Governing Radio Common Carrier Services should be adopted, thereby eliminating all requirements regarding tariff filing and regarding additional certification for service territory expansion. If the proposed rules are adopted, existing providers of radio common carrier services would automatically be granted statewide certification at the time of the adoption.

Accordingly, IT IS ORDERED:

(1) That this proceeding be docketed and given Case No. PUC890042, and that the Commission's Division of Communications forthwith cause the following notice to be published once in newspapers having general circulation throughout the Commonwealth of Virginia:

NOTICE OF PROPOSED RULEMAKING PROCEEDING TO CONSIDER ABOLISHING CURRENT SCC RULES GOVERNING THE CERTIFICATION OF RADIO COMMON CARRIERS ADOPTED PURSUANT TO VIRGINIA CODE § 56-508.6 AND SCC RULES GOVERNING ESTABLISHMENT OF COMPETITIVE RATES, CHARGES, AND REGULATIONS PURSUANT TO VIRGINIA CODE § 56-508.5B, AND ADOPTING RULES GOVERNING RADIO COMMON CARRIER SERVICES - CASE NO. PUC890042.

By Final Order entered September 27, 1984, in Case No. PUC840029, the Commission adopted Rules Governing The Certification of Radio Common Carriers. These rules were intended to implement Code § 56-508.6 and facilitate filing applications for a certificate to operate in, or to extend existing operations into, an established service area of another certificated radio common carrier.

By Final Order entered August 25, 1986, in Case No. PUC860003, the Commission adopted Rules Governing Establishment of Competitive Rates, Charges, and Regulations Pursuant to Virginia Code § 56-508.5B. The purpose of these rules is to allow the filing of applications by public service companies, other than telephone companies, providing radio common carrier service, as defined in Virginia Code § 56-508.1, desiring to have their rates, charges, and regulations established on a competitive basis, rather than pursuant to Chapter 10 of Title 56 of the Code of Virginia.

The Commission proposes to abolish the foregoing rules and adopt new rules entitled Rules Governing Radio Common Carrier Services so that companies providing radio common carrier services would no longer be required to file tariffs with the Commission, and those companies desiring to expand their service

State Corporation Commission

territories would no longer be required to seek additional certification. The requirement that new entrants to the radio common carrier business must obtain a certificate from the Commission would not be eliminated. These revisions are being considered because of increased competition within the radio common carrier industry, and because of the implementation of the Virginia Experimental Plan by the Commission. The Plan detariffed the radio common carrier services provided by Virginia's five large local exchange telephone companies, since the Commission determined as a result of that case that such services are actually competitive.

The Commission invites interested persons, including radio common carriers and telephone companies offering radio common carrier services, to comment in writing or request a hearing on the proposed changes. A copy of the proposed new rules and the existing rules may be examined at the Commission's Document Control Center, Floor B1, Jefferson Building, Bank and Governor Streets, Richmond, Virginia, Monday through Friday, during the hours of 8:00 a.m. to 5:00 p.m., or during regular business hours at the business offices where customers may pay their bills of each telephone company offering radio common carrier service or of each radio common carrier.

Interested persons may submit written comments on the proposed changes on or before December 18, 1989, by filing an original and fifteen (15) copies with George W. Bryant, Jr., Clerk, c/o Document Control Center, Virginia State Corporation Commission, P.O. Box 2118, Richmond, Virginia, 23216, making reference to Case No. PUC890042. Anyone who wishes to be heard by the Commission regarding the proposals must file not later than December 18, 1989, with George W. Bryant, Jr., Clerk, as specified above, an original and fifteen (15) copies of a request for a hearing. In the absence of a request for a hearing, the Commission may enter a Final Order regarding the proposed abolitions and adoption after considering such written comments as may be received.

VIRGINIA STATE CORPORATION COMMISSION

(2) That any interested person may file written comments concerning the purposes of the rulemaking proceeding, and may request a hearing thereon, provided that an original and fifteen (15) copies of the comments and any request for a hearing are filed no later than December 18, 1989, with George W. Bryant, Jr., Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216. All communications should refer to Case No. PUC890042. In the absence of a request for a hearing, the Commission may enter a Final Order in the proceeding after considering such written comments as may be received.

(3) That each telephone company offering radio common carrier service and each radio common carrier

shall forthwith make available for public inspection during normal business hours at the business offices where bills may be paid a copy of the proposed rules as set forth in Attachment A to this order, together with a copy of the rules which the SCC proposes to abolish; and

(4) That on or before December 18, 1989, the Division of Communications provide proof of publication as required herein.

ATTESTED COPIES hereof shall be sent by the Clerk of the Commission to the Radio Common Carriers of the State of Virginia as shown on the service list attached hereto as Attachment B; to the local exchange companies operating in Virginia as shown on Attachment C; to the Division of Consumer Counsel, Office of the Attorney General; 101 North 8th Street, 5th Floor, Richmond, Virginia 23219; and to the Commission's Divisions of Communications, Accounting and Finance, and Economic Research and Development.

Attachment A

RULES GOVERNING RADIO COMMON CARRIER SERVICES

Rule 1 - All public service corporations, other than telephone companies, and others proposing to provide radio common carrier services in Virginia pursuant to Virginia Code § 56-508.6 shall file an original and fifteen (15) copies of an Application for Certificate with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, which shall contain all of the information and exhibits required herein by these rules.

Rule 2 - Notice of the application shall be given to each existing provider of radio common carrier services and shall be provided to governmental officials if required by the Commission in its initial order establishing the procedural schedule for the case. Applicants shall submit information which identifies the applicant including (a) its name, address, and telephone number, (b) its corporate ownership, (c) the name, address, and telephone number of its corporate parent or parents, if any, (d) a list of its officers and directors or, if the applicant is not a corporation, a list of its principals and their directors if said principals are corporations, and (e) the names, addresses, and telephone numbers of its legal counsel.

Rule 3 - Each incorporated applicant for a certificate shall demonstrate that it is authorized to do business in the Commonwealth as a public service company.

Rule 4 - Applicants shall be required to show their financial, managerial, and technical ability to render radio common carrier service to any person within any of the service areas requested. (a) As a minimum requirement, a showing of financial ability shall be

made by attaching the applicant's most recent stockholder's annual report and its most recent SEC Form 10-K or, if the company is not publicly traded, its most recent financial statements. (b) To demonstrate managerial experience, each applicant shall attach a brief description of its history of providing radio common carrier service and shall list the geographic areas in which it has been and is currently providing radio common carrier service. Each applicant shall list the experience of each principal officer in order to show its ability to provide service. (c) Technical abilities shall be indicated by a description of proposed and existing facilities within the Commonwealth. Applicants shall file with the Commission construction permits and reliable service area maps as required by the Federal Communications Commission. Applications shall explain each of the services proposed to be offered by the applicant in Virginia and shall explain the marketing the applicant plans to use to make these services known to the public.

Rule 5 - No specific service area shall be granted with the certificate. Instead, providers will be authorized to provide service, as indicated on their reliable service area contour maps as filed with the Federal Communications Commission (FCC).

Companies must inform customers that reliable service can only be anticipated within the area defined by the signal contour. The reliable service area of a base station is that portion of the field strength contour within which the reliability of communication service is 90%, i.e. within the area circumscribed by such contour, 9 out of every 10 calls initiated by the base station can be satisfactorily received by the mobile unit, as taken from Part 22 of the Rules and Regulations of the Federal Communications Commission. Providers are permitted to inform customers that adequate service may be had beyond the signal contour line depending upon atmospheric and other conditions.

Rule 6 - Radio common carriers holding certificates on the date these rules are adopted will be granted statewide certification upon filing with the Commission's Division of Communications a United States Geological Survey (USGS) map of Virginia showing all reliable service area contours.

Rule 7 - No provider of radio common carrier services shall abandon or discontinue service, or any part thereof, established under provisions of § 56-508.6 of the Code of Virginia except with the approval of the Commission, and upon such terms and conditions as the Commission may prescribe.

Rule 8 - Prior Commission approval will be required to introduce any rates, charges, and conditions that vary according to customers' geographic locations.

Rule 9 - Each provider of radio common carrier services annually shall file a current financial report with the Commission, shall maintain Virginia books, and shall maintain such books in accordance with generally accepted accounting principles. In lieu of a tariff-filing requirement, price lists are required to be filed under proprietary protection with the Commission Staff on an annual basis by all companies providing radio common carrier services in Virginia.

Rule 10 - No provider of radio common carrier services shall unreasonably discriminate among subscribers requesting service. Any finding of such discrimination shall be grounds for suspension or revocation of the certificate granted by the Commission. Excessive subscriber complaints against any provider, which the Commission has found to be meritorious, may also be grounds for suspension or revocation of the provider's certificate. In all proceedings pursuant to Rule 10, the Commission shall give notice to the provider of the allegations against it and offer the provider an opportunity to be heard concerning those allegations prior to the suspension or revocation of the provider's certificate of public convenience and necessity.

Rule 11 - Any provider of radio common carrier services requiring customer deposits for service may be required to file with the Commission a surety bond or other guarantee of responsibility in an amount sufficient to assure refunds of all outstanding customer deposits. Those providers requiring customer deposits shall also pay interest on those deposits as required by the Commission's order in Case No. PUE820073 and shall also adhere to late payment and returned check charges addressed in Case No. 19589 or in subsequent modifications thereof.

Rule 12 - Any certificated provider of radio common carrier services or applicant opposed to the certification of a competing provider shall present evidence of any adverse effect on service within the Commonwealth upon the competing or other certificated service providers and shall also present evidence that the proposed service will result in unnecessary duplication of facilities and services.

Rule 13 - Each application for a certificate to provide radio common carrier service shall include the provider's proposed price lists, rules, regulations, terms, and conditions.

ATTACHMENT B

RADIO COMMON CARRIERS

Mr. Benton Burroughs, Jr.,
Vice President and General Counsel
Advanced Radio Communications Company
6677 Richmond Highway
Alexandria, Virginia 22306

State Corporation Commission

Mr. Edward W. Clark, President
Afton Communications Corporation
Route 11, Box 401
Roanoke, Virginia 24019

Mr. Anthony R. Zandy, President
Always Answering Service, Inc.
8025 Lighthouse Landing
Frederick, Maryland 21701

Mr. Malcolm Bengé
Zuchert, Scoutt, Rasenberger, and Johnson
American Paging, Inc.
Brawner Building
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3959

Mr. Roy Markert
Vice President
E-Z Page, Inc.
6210 Virginia Beach Blvd.
Norfolk, Virginia 23502

Ms. Audrey Rasmussen
Exeuctive Services Paging Company
O'Connor and Hannan
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Mr. Francis I. Lambert, President
Great Eastern Communications Company
P.O. Box 181
Waterford, Virginia 22190

Mr. Andrew Hawkins
Hawkins Communications, Inc.
5206 Minnick Road
P.O. Box U
Laurel, Maryland 20707

Mr. Charles R. Smith
Hello Pager Company, Inc.
2315 West Broad Street
Richmond, Virginia 23220

Mr. Dennis O. Laing
Christian, Barton, Epps, Brent & Chappell
McMillen Communications Corp. of Virginia, Inc.
1200 Mutual Building
909 East Main Street
Richmond, Virginia 23219-3095

Mr. Harry L. Brock, Jr., President
Metrocall of Delaware, Inc.
6677 Richmond Highway
Alexandria, Virginia 22306-6677

Mr. Darrell C. Bauguess
Metro-Tones of Virginia, Inc.
4401 East-West Highway

Suite 304
Bethesda, Maryland 20814

Mr. William L. Collins, III
President
Mid-Atlantic Communications, Inc.
6273 Franconia Road
Alexandria, Virginia 22310

Mr. Milford S. Holben, Jr., President
Middle Peninsula Communications Corporation
Box 830
Gloucester Point, Virginia 23062

Mr. John N. Palmer
Mobilecomm of Virginia, Inc.
P.O. Box 2367
Jackson, Mississippi 39205

Mr. Anthony DiCroce, Vice President
Omni Communications of Virginia, Inc.
319 Lynnway
Lynn, Massachusetts 01903

Mr. C. Thomas Green, III
PJB Communications of Virginia, Inc.
Hirschler, Fleischer, Weinberg, Cox & Allen
629 East Main Street, P.O. Box IQ
Richmond, Virginia 23202

Mr. Vernon H. Baker, President
Paging, Inc.
P.O. Box 889
Blacksburg, Virginia 24060

Ms. Judith St. Ledger-Roty, Esq.
Reed Smith Shaw & McClay
Paging Network of Washington, Inc.
1200 18th Street, N.W.
Washington, D.C. 20036

Mr. Vernon H. Baker
Radio Call
P.O. Box 889
Blacksbrug, Virginia 24060

Richard B. Gary, Esquire
Radio Phone Communications, Inc.
Trading as Metromedia Paging Service
Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

Mr. Robert Rule
Rule Communications
2232 Dell Range Boulevard
Cheyenne, Wyoming 82009

Mr. Christopher E. French
Shenandoah Mobile Company

Route 1, Box 245
Woodstock, Virginia 22664

Mr. Howard R. Long, President
Southwest Virginia Professional Services
Association, Inc.
432 Valley Drive
Richlands, Virginia 24614

Mr. Allen Layman
Executive Vice President
The Beeper Company
P.O. Box 174
Daleville, Virginia 24083

Mr. Robert H. Baranek, Director-Administration
United Telespectrum of Virginia, Inc.
P.O. Box 7942
Shawnee Mission, Kansas 66207

J. Geoffrey Bentley, Attorney
U.S. Central of Virginia, Inc.
1155 Connecticut Avenue, N.W.
Suite 1200
Washington, D.C. 20036

ATTACHMENT C

TELEPHONE COMPANIES IN VIRGINIA

Mr. Joseph E. Hicks, President
Amelia Telephone Corporation
P.O. Box 158
Leesburg, Alabama 35983

Mr. Raymond L. Eckels, Manager
Amelia Telephone Corporation
P.O. Box 76
Amelia, Virginia 23001

Mr. M. Dale Tetterton, Jr., Manager
Buggs Island Telephone Cooperative
P.O. Box 129
Bracey, Virginia 23919

Ms. Sue B. Moss, President
Burke's Garden Telephone Exchange
P.O. Box 428
Burke's Garden, Virginia 24608

Mr. J. Thomas Brown
Vice President & Division Manager & Central Telephone
Company of Virginia
P.O. Box 6788
Charlottesville, Virginia 22906

Mr. Hugh R. Stallard, President
Chesapeake & Potomac Telephone Company
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Mr. James R. Newell, Manager
Citizens Telephone Cooperative
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Mr. Robert S. Yeago, President
Clifton Forge-Waynesboro Telephone Company
P.O. Box 2008
Staunton, Virginia 24401

Mr. Clarence Prestwood, President
Contel of Virginia, Inc.
9380 Walnut Grove Road
P.O. Box 900
Mechanicsville, Virginia 23111-0900

Mr. J. M. Swatts
State Manger - External Affairs
GTE South
P.O. Box 4338
Bluefield, West Virginia 24701

Mr. Thomas R. Parker
Associate General Counsel
Law Department
GTE South
P.O. Box 110 - Mail Code: 7
Tampa, Florida 33601-0110

Mr. L. Ronald Smith
President/General Manager
Mountain Grove-Williamsville
Telephone Company
P.O. Box 105
Williamsville, Virginia 24487

Mr. T. A. Glover, Manager
Highland Telephone Cooperative
Monterey, Virginia 24465

Mr. K. L. Chapman, Jr., President
New Hope Telephone Company
P.O. Box 38
New Hope, Virginia 24469

Mr. W. Richard Fleming, Manager
North River Telephone Cooperative
P.O. Box 8
Dayton, Virginia j22812

Mr. Ross E. Martin, General Manager
Pembroke Telephone Cooperative
P.O. Box 549
Pembroke, Virginia 24136-0549

Mr. E. B. Fitzgerald, Jr.
President & General Manager
Peoples Mutual Telephone company, Inc.
P.O. Box 367
Gretna, Virginia 24557

State Corporation Commission

Mr. Ira D. Layman, Jr., President
Roanoke & Botetourt Telephone Company
Daleville, Virginia 24083

Mr. James W. McConnell, Manager
Scott County Telephone Cooperative
P.O. Box 487
Gate City, Virginia 24251

Mr. Christopher E. French
President
Shenandoah Telephone Company
P.O. Box 459
Edinburg, Virginia 22824

Mr. Richard B. Cashwell, President
United Inter-Mountain Telephone Company
112 Sixth Street, P.O. Box 699
Bristol, Tennessee 37620

Mr. Dennis H. O'Hearn, Vice President
Virginia Hot Springs Telephone Company
P.O. Box 699
Hot Springs, Virginia 24445

STATE CORPORATION COMMISSION

AT RICHMOND, November 2, 1989

COMMONWEALTH OF VIRGINIA, ex rel.

CASE NO. RRR830003

STATE CORPORATION COMMISSION

Ex Parte, in re: Adoption of Standards
and Procedures to Administer the Staggers
Rail Act of 1980

ORDER DIRECTING NOTICE OF INTENTION TO ADOPT REGULATIONS

In 1983, the Commonwealth of Virginia became the first state granted certification to regulate intrastate railroad rates, practices and procedures pursuant to the Staggers Act, 49 U.S.C.A 11501(b). Intrastate Rail Rate Authority - Virginia, 367 I.C.C 527 (1983). Prior to expiration of that certification, the Virginia State Corporation Commission (Commission) applied for recertification beyond the initial five-year period. Updated Standards and Procedures for Intrastate Rail Regulation were submitted to the Interstate Commerce Commission (I.C.C.) on August 19, 1988 and the initial certification was extended on an interim basis until the I.C.C. decided whether to renew the certification for an additional five-year period.

On September 13, 1989, the I.C.C. approved Virginia's updated Standards and Procedures, with minor modifications. The new certification became effective on October 20, 1989. The updated Standards and Procedures,

modified in accordance with the I.C.C.'s order of September 13, 1989, are intended to supersede the standards and procedures in use under the former certification, and are to be interpreted consistently with the commitments undertaken by the Commission in its March 13, 1989 Supplemental Submission to the I.C.C. Copies of the updated Standards and Procedures and the Supplemental Submission are available from the Commission's Division of Railroad Regulation.

The Commission intends to adopt the updated Standards and Procedures as regulations. Accordingly,

IT IS ORDERED:

(1) That the Division of Railroad Regulation send an attested copy of this order, a copy of the updated Standards and Procedures, and a copy of the Supplemental Submission to each rail carrier operating within Virginia and to any other person requesting copies of such materials;

(2) That notice of the proposed adoption of the Standards and Procedures be published in the Virginia Register;

(3) That any person desiring to file written comments on, or request a hearing with respect to, the Standards and Procedures shall file such comments or request with the Clerk of the State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23209 on or before January 15, 1990.

/s/ George W. Bryant, Jr.
Clerk of the State Corporation Commission

SUPPLEMENTAL SUBMISSION

STANDARDS AND PROCEDURES GOVERNING INTRASTATE RAIL RATES IN VIRGINIA

This supplemental submission is made by the Virginia State Corporation Commission ("SCC") pursuant to the decision of the Interstate Commerce Commission in Ex Parte No. 388 A: State Intrastate Rail Road Authority - - P.L. 96-448 - - Recertification Process. This submission incorporates by reference the SCC's previous filing herein, dated August 18, 1988.

Section 56-99.2 of the Code of Virginia (1950) provides as follows:

Notwithstanding any other provision of law, the State Corporation Commission shall have the authority to administer and prescribe the rates, rules, classification and practices of railroad companies exclusively in accordance with the provisions of Subtitle IV of Title 49 of the United States Code, as amended by the Staggers Rail Act of 1980, Public Law 96-448. The Commission shall also have the authority to establish, by rule or regulation,

State Corporation Commission

standards and procedures to administer the rates, rules, classifications and practices of railroad companies exclusively in accordance with federal law. (1983, c. 443).

Pursuant to this statute, the SCC has promulgated rules and regulations governing intrastate rail rates, practices and procedures in Virginia. On August 29, 1983, in Intrastate Rail Rate Authority - Virginia, 367 I.C.C. 527 (1983), the Interstate Commerce Commission granted Virginia unconditional certification, under 49 U.S.C. 11501(b), to regulate intrastate rail matters for a five year period ending August 28, 1988.

Virginia wishes to continue its regulation of intrastate rail rates, classifications, rules and practices. Accordingly, by filing dated August 18, 1988, the SCC submitted its revised Standards and Procedures Governing Intrastate Rail Rates in Virginia for recertification by the Interstate Commerce Commission pursuant to 49 U.S.C. 11501 (b)(5)(A). By decision dated August 19, 1988 in Ex Parte No. 388 (Sub - No. 33), the Interstate Commerce Commission provisionally extended Virginia's certification pending final decision on its revised filing.

The Virginia State Corporation Commission now certifies the following:

- (1) The SCC's standards and procedures governing intrastate rail matters remain the same as those previously certified by the Interstate Commerce Commission except to the extent they have been updated to reflect changes in federal standards.
- (2) A comprehensive list of the SCC's updated standards and procedures is included in the SCC's revised filing herein, dated August 18, 1988.
- (3) The SCC will exercise authority over intrastate rail rates, classifications, rules and practices exclusively in accordance with federal law and federal law will govern even if not explicitly provided in the SCC's Standards and Procedures Governing Intrastate Rail Rates in Virginia.

Additionally, to the extent not otherwise provided in its August 18, 1988 submission, the SCC will follow the Interstate Commerce Commission's proposed standards for non-coal cases as outlined in Ex Parte No. 347 (Sub - No. 2), Rate Guidelines - Non Coal Proceedings.

Moreover, the SCC agrees to be bound by the Interstate Commerce Commission's ultimate determination in the following proceedings:

- (1) Ex Parte No. 230 (Sub - No. 7), Improvement of TOFC/COFC Regulations (Pickup and Delivery);
- (2) Ex Parte No. 346 (Sub - No 23), Railroad Exemptions - Filing Quotations Under Section 10721;

(3) Ex Parte No. 346 (Sub - No. 24), Rail General Exemption Authority - Miscellaneous Manufactured Commodities; and

(4) Ex Parte No. 462, Rail Car Demurrage.

Finally, the SCC certifies that all actions affecting intrastate rail matters will be consistent with the national rail transportation policy, 49 U.S.C. 10101a.

Respectfully submitted,

VIRGINIA CORPORATION COMMISSION

By /s/ M. Brooks Savage, Jr.
Counsel

GOVERNOR

EXECUTIVE ORDER NUMBER SEVENTY-SIX (89)

DECLARATION OF STATE OF EMERGENCY ARISING FROM FLOODING IN BUCHANAN COUNTY, VIRGINIA

During the period October 16 and 17, 1989, a torrential rainstorm occurred which caused flash floods in Buchanan County, Virginia. The four and one-half inches of rainfall resulted in the destruction of and damage to public property and bridges.

The health and general welfare of the citizens of the affected locality require that state action be taken to help alleviate the conditions brought about by this situation, which constitutes an emergency as contemplated under the provisions of Section 44-146.16 of the Code of Virginia.

By virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and subject to my continuing and ultimate authority and responsibility to act in such matters, I do hereby proclaim a state of emergency to exist in the affected area of the Commonwealth and direct that appropriate assistance be rendered by agencies of state and local government to alleviate these conditions.

This Executive Order will terminate on June 30, 1990, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 27th day of October, 1989.

/s/ Gerald L. Baliles
Governor

EXECUTIVE ORDER NUMBER SEVENTY-SEVEN (89)

DELEGATION OF AUTHORITY CONFERRED BY CHAPTERS 415, 425, 452, 477, AND 668 OF THE 1989 ACTS OF ASSEMBLY

By virtue of the authority vested in me as Governor by § 2.1-39.1 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers, I hereby delegate to the individuals holding the positions named herein, the several powers and duties conferred upon me by the provisions of Chapters 415, 425, 452, 477, and 668 of the 1989 Acts of Assembly as detailed below:

I. Delegations of Authority to Officials in the Office of Administration

A. To the Secretary of Administration:

Item/Section Subject Matter

Appropriations Act

§ 4-5.09 Approve waiver of agency requirement to certify available funds and conform to space planning procedures if lease avoids a cost increase or results in measurable benefit to the state and funds are available.

§ 4-6.04 c. Approve rates charged employees for parking spaces in state-owned facilities; determine use of parking charges paid by employees.

§ 4-8.01 c.2 Submit report on employment of special counsel in certain highway proceedings.

B. To the Director, Department of General Services:

Appropriations Act

§ 2-1. C. Prescribe guidelines for purchase of equipment to be used in structures for which funds are provided.

§ 2-1. E. Receive certification from agency heads that roof repairs have been given first priority before requesting other renovation or construction.

§ 4-4.01 c. Approve preliminary requirements for capital projects.

§ 4-4.01 f. Governor's approval of use of price escalation contingencies funds in planning and project funding of agency capitol projects.

§ 4-4.01 h. Approve variance to conformance with space planning guides for capital projects.

§ 4-4.01 k. Specify reporting requirements on capital projects.

§ 4-8.01 b 7. Submit monthly report on waivers of the requirements on agencies acquiring property by lease to the Chair of House Appropriations, House Finance and Senate Finance Committees.

§ 4-8.01 d 1. Submit reports on progress of specified capital projects to House Appropriations, House Finance and Senate Finance Committees.

C. To the Director, Department of Information Technology:

Appropriations Act

§ 4-5.06 e. Approve expenditure for motion picture, television and radio services production.

D. To the Director, Department of Personnel and Training:

Appropriations Act

- § 4-6.01 a. Develop compensation rules and regulations (for the approval of the Governor).
- § 4-6.01 e and f. Establish compensation and classification plans for approval of the Governor. Implement incentive award payment system to be adopted by the Governor.
- § 4-6.02 Issue rules and regulations for compensation of employee training and academic study.

II. Delegation of Authority to Officials in the Office of Education

A. To the Secretary of Education:

Item/Section Subject Matter

Appropriations Act

- § 4-8.01 e.2 Submit report on status of certain State Council of Higher Education exemptions to policy which prohibit use of funds for academic programs.

III. Delegations of Authority to Officials in the Office of Finance

A. To the Secretary of Finance:

Appropriations Act

- § 4-1.02 a. Withhold appropriations under certain conditions.
- § 4-1.06 a. Prescribe management standards for institutions of higher education and other agencies under which unexpended appropriations may be reappropriated.
- § 4-1.08 Act on appeals of agency heads regarding allotment of funds from appropriations required by this Act, by § 2.1-224 of the Code of Virginia and the authorization of rates of pay required by the Act.
- § 4-4.01 e. 1.a Develop guidelines for review of proposed capital projects to be financed by revenue bonds or federal loans.

§ 4-4.01 e. 1.c. Receive capital project request, with feasibility statement from Treasurer, to initiate planning or changes in the project request after appropriation is made and which is proposed to be financed by revenue bonds or federal loans, or after the approval of revenue bond amount, project or scope.

§ 4-5.01 a. Designate operating expense appropriations for payment of claims settled pursuant to § 2.1-1217, Code of Virginia.

B. To the Director, Department of Planning and Budget:

Item/Section Subject Matter

Chapters 452 and 477, 1989 Acts of Assembly

§ 6 Certify the unexpended balances on all capital projects for which revenue bonds have been issued or authorized in order that these funds may be reappropriated.

Chapters 415 and 425, 1989 Acts of Assembly

§ 6 Certify the unexpended balances of all capital projects authorized in the current biennium for reappropriation.

Appropriations Act

- 511 Financial Assistance Administration of Justice Services: Approve reappropriation of unexpended balances. Transfer appropriations between this appropriation and item 508 (Administrative and Support Services) in response to changes in legislation, not to exceed the appropriation of either item. Approve expenditure of additional federal funds which may become available.
- 667. A. and D. Higher Education Academic, Fiscal and Facility Planning and Coordination: make transfer for payments on leases of instructional and research equipment and approve emergency acquisitions and fulfill reporting requirements for equipment.
- 671. A. and B. Financial Assistance for Education and General Services: transfer funds from this appropriation, with the advice of the Secretary of Education,

Governor

- to implement the Virginia Plan for Equal Opportunity in State-Supported Institutions of Higher Education.
- § 2-1. D.5. Capital Project Expenses: authorize preliminary design during current biennium for capital projects which have appropriation for planning for the succeeding biennium as long as preliminary design expenditures are paid out of the appropriations for succeeding biennium.
- § 2-1. F. Prescribe rules and regulations for expenditures for items identified as 'Major Repairs: Maintenance Reserve.'
- § 2-2. C-2. Improvement: State-Owned Land, Buildings, and Equipment - Report transfers and supplements from this appropriation to the Chairmen of the House Appropriations Committee and the Senate Finance Committee.
- § 2-2. C-4. Improvement: Provide Access for the Handicapped in Compliance with the requirements of the Vocational Rehabilitation Act 1973, § 504; Phase I (10076)
- § 3-1.01. D. Transfer surplus property balance to the General Fund (so as to accomplish a total transfer of \$ 1,395,000 during the biennium).
- § 4-1.05 b. 4. Report on increases in unappropriated nongeneral fund revenues in accordance with § 408.00 of this Act.
- § 4-1.06 a. Restore certain unexpended General Fund appropriations and reappropriations to agencies meeting established management practices.
- § 4-2.01 a. Issue written policies for agencies' solicitation 1. and 2. and acceptance of donations, gifts and grants under states conditions. Approve acceptance of such funds with certain exceptions.
- § 4-2.01 b. Approve use of agency's funds as participating or matching funds
- in federal programs.
- § 4-2.01 d. 4.a. Receive documentation from any higher educational institutional generating and retaining fees collected in excess of rates provided in § 4-2.01 d.3 of this Act.
- § 4-2.02 a.2. Transfer funds to the general fund from the sale of surplus property not subject to § 2.1-457 of the Code of Virginia.
- § 4-5.06 b. (1)(b)(2) Transfer appropriations between affected programs in event of revised billing system for computer, telecommunications and system development services (limited to extent of overfunding or underfunding for computer resource center services included in the program's appropriation).
- § 4-7.01 e. Administer plan to restrict manpower levels of Executive Departments to number required for efficient operation of programs.
- § 4-8.01 a., b.1-6, c.1., d.2, e.1., and f. Submit specified monthly reports to the Chair of House Appropriations, House Finance and Senate Finance Committees.
- IV. Delegation of Authority to Officials in the Office of Transportation and Public Safety**
- A. To the Secretary of Transportation and Public Safety:
- Appropriations Act**
- § 4-5.03 Authorize the transfer of prison labor or farm commodities produced at any state agency to any other state agency.
- Should conflicts arise concerning any action authorized by this Executive Order, the matter shall be resolved by the Governor.
- This Executive Order will become effective upon its signing and will remain in full force and effect until June 30, 1990, unless amended or rescinded by further executive order.
- Given under my hand and under the Seal of the Commonwealth of Virginia, this 3rd day of November, 1989.
- /s/ Gerald L. Baliles
Governor

**GOVERNOR'S COMMENTS ON PROPOSED
REGULATIONS**

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF HEALTH (STATE BOARD OF)

**Title of Regulation: VR 355-28-01.05. Board of Health
Regulations Governing Vital Records.**

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public comments.

/s/ Gerald L. Baliles
Date: November 2, 1989

* * * * *

**Title of Regulation: VR 355-32-02. Rules and Regulations
Governing Financial Assistance for Emergency Medical
Services.**

Governor's Comment:

I concur with the content of this proposal. My final approval is contingent upon the incorporation of comments and suggestions made by the Department of Planning and Budget to the Division of Emergency Medical Services and upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: October 31, 1989

DEPARTMENT OF TAXATION

**Title of Regulation: VR 630-3-400.1: Corporation Income
Tax: Telecommunications Companies.**

Governor's Comment:

I concur with the substance of these proposed regulations. Pending public comment, I recommend approval.

/s/ Gerald L. Baliles
Date: November 7, 1989

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **VR 125-01-1 through VR 125-01-7. Regulations of the Virginia Alcoholic Beverage Control Board.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending or repealing the board's regulations.

Notice to the Public

A. Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines For Adoption Or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control Board), the Board will conduct a public meeting on January 17, 1990, at 10 a.m. in its Hearing Room, First Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, City of Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of Board regulations. Any group or individual may file with the Board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. Recommended adoption, amendment or repeal of specific regulation(s).
4. Why is change needed? What problem is it meant to address?
5. What is the anticipated effect of not making the change?
6. Estimated costs and/or savings to regulate entities, the public, or others incurred by this change as compared to current regulations.
7. Who is affected by recommended change? How affected?
8. Supporting documents.

The Board may also consider any other request for

regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the Board no later than November 17, 1989.

B. The Board will also be appointing an Ad Hoc Advisory Panel consisting of persons on its General Mailing List who will be affected by or interested in the adoption, amendment or repeal of Board regulations. This panel will study requests for regulatory changes, make recommendations, and suggest actual draft language for a regulation, if it concludes a regulation is necessary. Anyone interested in serving on such panel should notify the undersigned by November 17, 1989, requesting that their name be placed on the General Mailing List.

C. Applicable laws or regulation (authority to adopt regulations): Sections 4-11, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103 and 9-6.14:1 et seq., Virginia Code; VR 125-01-1, Part V, Board Regulations.

D. Entities affected: (1) all licensees (manufacturers, wholesalers, importers, retailers) and (2) the general public.

A public meeting will be held on January 17, 1990, at 10 a.m., in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comments from the public.

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14 and 4-103(b) of the Code of Virginia.

Written comments may be submitted until 10 a.m., January 17, 1990.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

VIRGINIA DEPARTMENT OF AVIATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Aviation intends to consider repealing existing regulations and promulgating new regulations entitled: **Rules and Regulations of the Department of Aviation and Virginia Aviation Board.** The purpose of the proposed action is to govern the licensing and operation of aircraft and airports, and to govern and permit structures in the airspace of the Commonwealth.

Statutory Authority: § 5.1-2.2 of the Code of Virginia.

Written comments may be submitted until December 20, 1989, to Kenneth A. Rowe, Director, Virginia Department of Aviation, 4508 South Laburnum Avenue, Richmond, VA 23231-2422.

Contact: Keith F. McCrea, AICP, Aviation Planner, 4508 S. Laburnum Ave., Richmond, VA 23231-2422, telephone (804) 786-1365 or toll-free 1-800-292-1034

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Criminal Justice Services intends to consider promulgating regulations entitled: **McGruff House Regulations**. The purpose of the proposed action is to provide procedural instruction for the sponsorship and operation of McGruff House Program.

Statutory Authority: § 9-173.4 of the Code of Virginia.

Written comments may be submitted until December 18, 1989.

Contact: Patrick D. Harris, Crime Prevention Center Program Manager, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8467

DEPARTMENT OF HEALTH (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Governing the Newborn Screening and Treatment Program**. The purpose of the proposed action is to (i) revise the regulations to include diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia and (ii) clarify the critical time periods for submitting newborn screening tests in order to more accurately test for diseases that are mandated.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 of Title 32.1 of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Program Director, Department of Health, Division of Maternal and Child Health, James Madison Bldg., 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367 or SCATS 786-7367

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Rules and Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualification for Noncommercial and Commercial Blood Banks**. The purpose of the proposed action is to update the 1980 regulations to reflect change in federal regulations, American Association of Blood Bank guidelines and current blood banking technology.

Statutory Authority: §§ 32.1-2, 32.1-12, 32.1-42 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: Dr. Martin A. Cader, Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261 or SCATS 786-6261

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987 Edition**. The purpose of the proposed action is to amend the VSFPC to authorize fire officials to enforce the provisions of the 1987 VUSBC, Volume II, Building Maintenance Code pertaining to the installation of fire suppression and alarm systems in existing institutional buildings (Use Group I).

The 1987 edition of the Virginia Statewide Fire Prevention Code is a set of regulations adopted by the Board of Housing and Community Development pursuant to § 27-94 of the Code of Virginia. This code is a mandatory, statewide set of regulations that must be complied with for the protection of life and property from the hazards of fire or explosion. Local governments are empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in erection, alteration, repair, or use of a building or structure. Local enforcement of this code is optional.

Statutory Authority: §§ 27-94 and 27-97 of the Code of Virginia.

Written comments may be submitted until December 15, 1989.

Contact: Gregory H. Revels, Program Manager, 205 N. 4th

General Notices/Errata

St., Richmond, VA 23219, telephone (804) 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code/1987 Edition.** The purpose of the proposed action is to amend those portions of the USBC pertaining to the installation of fire suppression and alarm systems in existing buildings to include nursing homes, homes for adults, hospitals and other institutional uses (Use Group I).

Volume II - Building Maintenance Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Local enforcement of this code is optional.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until December 15, 1989.

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

LIBRARY BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Library Board intends to consider amending regulations entitled: **Requirements Which Must be Met in Order to Receive Grants-In-Aid.** The purpose of the proposed action is to consider changes to the local minimum expenditure requirement and to other criteria libraries must meet in order to receive grant-in-aid.

Statutory Authority: § 42.1-52 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

Contact: Ella Gaines Yates, State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

DEPARTMENT OF MINES, MINERALS AND ENERGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-05-9.2. Rules and Regulations Governing the Use of Diesel-Powered Equipment in Underground Coal Mines.** The purpose of the proposed action is to ensure the health and safety of underground coal miners in mines where diesel-powered equipment is used.

A public meeting is scheduled for December 19, 1989, in the Dalton-Cantrell Auditorium, Mountain Empire Community College, Big Stone Gap, Virginia.

Statutory Authority: §§ 45.1-1.3 and 45.1-104 of the Code of Virginia.

Written comments may be submitted until January 5, 1990.

Contact: Bill Edwards, Policy Analyst, Department of Mines Minerals and Energy, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330

VIRGINIA RACING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intendsto consider promulgating regulations entitled: **Definitions, Licensure, Pari-Mutuel Wagering and Purse Distribution.** The purpose of the proposed regulation is to establish criteria for owner's, owner-operator's, and operator's licenses; establish procedures for the sale and cashing of pari-mutuel tickets and calculation of pools; and establish procedures for the distribution of purse money to participants.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until December 6, 1989, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

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 680-15-01. Water Withdrawal Reporting. The purpose of the proposed action is to consider amending the existing Regulation No. 11 to require reporting of withdrawals which exceed one million gallons in any single month for use for crop irrigation, to conform with the style requirements of the Virginia Registrar of Regulations, and to make such other changes as may be necessary for obtaining adequate information on water withdrawals.

The proposed amendments will impact all withdrawals which exceed one million gallons in any single month for use for crop irrigation. Applicable laws and regulations are § 62.1-44.36 et seq. of the Code of Virginia and Regulation No. 11.

Statutory Authority: § 62.1-44.38 C of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 5, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Dale F. Jones, Officer of Water Resources Planning, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6422

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 promulgating regulations entitled: **VR 680-15-02. Virginia Water Protection Permit.** The purpose of the proposed action is to establish a Virginia Water Protection Permit for any activity requiring a Section 401 Certification under the Clean Water Act and for ensuring that the proposed activity is consistent with the provisions of the State Water Control Law and the Clean Water Act.

If adopted, these regulations will establish the Virginia Water Protection Permit and will impact any activity requiring a Section 401 Certification under the Clean Water Act. Applicable laws and regulations include the State Water Control Law; Procedural Rule No. 3; and Sections 301, 302, 303, 306, 307, and 401 of the Clean Water Act. A public meeting has been scheduled, see Calendar of Events section for additional information.

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

Written comments may be submitted until 5 p.m., January 12, 1990, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Chester C. Bigelow, Office of Water Resources, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6406

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 promulgating regulations entitled: **VR 680-15-03. Surface Water Management Areas.** The purpose of the proposed regulation is to promulgate general regulations necessary for declaration of surface water management areas, and the permitting of water withdrawals, for areas where there is, in the judgment of the board, reason to believe that the conditions of § 62.1-246 of the Code of Virginia exist and the public welfare, health and safety require that regulatory efforts be initiated.

Regulations, if adopted, will establish the framework for declaration of surface water management areas which, if declared, would subject surface water withdrawals of 300,000 gallons or more per month for consumptive use to permitting and reporting requirements. Applications law is § 62.1-242 et seq. of the Code of Virginia. A public meeting has been scheduled for 2 p.m., January 3, 1990. See Calendar of Events section for additional information.

Statutory Authority: § 62.1-242 et seq. of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 12, 1990, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Joe Hassell, Office of Water Resources Management, State Water Control Board, 2111 N. Hamilton St., Richmond, VA 23230, telephone (804) 367-6435

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 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to conduct the review of water quality standards required by federal and state law every three years.

Possible changes to the standards have the potential to impact every VPDES permit holder in the Commonwealth. The range of impact varies from one of additional monitoring costs through upgrades to existing wastewater treatment facilities. Applicable laws and regulations include the State Water Control Law, Permit Regulation (VR 680-14-01), Policy for Nutrient Enriched Waters (VR 680-14-02), Toxics Management Regulation (VR 680-14-03), and Sections 303(c)(2)(B) and 307(a) of the Clean Water Act. Public meetings have been scheduled. See Calendar of Events section for additional information.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Eleanore Daub, Office of Environmental

General Notices/Errata

Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

GENERAL NOTICES

STATE MILK COMMISSION

† Public Hearing

Notice is hereby given that the Virginia Milk Commission will hold a hearing on Wednesday, December 13, 1989, beginning at 11 a.m., in House Room 1, State Capitol, Capitol Square, Richmond, Virginia.

This hearing is being held pursuant to § 3.1-430 and § 3.1-437 of the Code of Virginia, and Regulation Nos. 1 and 12 of the Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.

The purpose of this hearing is to receive evidence and testimony relative to adjusting all Class I prices in Commission ORDER NO. 17, and the Class II price as shown in Paragraph No. 1, Sub-paragraph C.(1) of Regulation No. 8 on Page 27 of the current Rules and Regulations.

The Commission is proposing the following amendment to Regulation No. 7 of the current Rules and Regulations:

Delete Sub-paragraph 5-D of Regulation No. 7 and Page 23 and substitute the following therefor:

5-D. Delivered base for each producer and/or cooperative association for a monthly delivery period shall be the assigned base, unless deliveries are less than assigned base. When deliveries are less than assigned base the delivered base shall be ninety-two percent (92%) of actual deliveries.

All interested parties will be afforded an opportunity to be heard and to present objections, amendments, evidence and arguments. The Commission will allow examination of witnesses only by those persons who have reserved their right of examination by filing a written notification of intent with the Commission at 1015 Ninth Street Office Building, Richmond, Virginia 23219, by 12:00 O'Clock Noon on Monday, December 11, 1989.

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: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

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

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

ERRATA

ALCOHOLIC BEVERAGE CONTROL BOARD

Title of Regulation: VR 125-01-2. Advertising.

Publication: 6:2 V.A.R. 181 October 23, 1989

Correction to the Final Regulation:

Page 181, § 2 D should read:

...to the provisions of ~~paragraph~~ *subdivision A 2 C 3* of this section.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-3.1100. Amount, Duration and Scope of Services. (New Drug Review Program.)

Publication: 6:4 V.A.R. 610 November 20, 1989

Correction to the Final Regulation:

Page 610, column 1, item 12a, subdivision 5, should be changed to read:

5. New Drugs [, except for Treatment Investigational New Drugs (Treatment IND),] are not covered until approved by the board,...

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-13-03. Petroleum Underground Storage Tank Financial Requirements.

Publication: 6:2 VA.R. 137-140 October 23, 1989

Correction to the Proposed Regulation:

Section 6 is being reprinted to conform with federal law.

§ 6. Financial test of self-insurance.

Note: Requirements of subsections D and E of this section are identical to the federal regulation. The staff has included requirements of subsections B and C for meeting the financial test of self-insurance for owners or operators and petroleum storage tank vendors of 1 to 33 tanks in lieu of the federal test for self-insurance. The board expressly requests comments on requirements of subsections B and C of this section including whether these requirements are as stringent as the federal regulation.

A. An owner or operator, petroleum storage tank vendor, and/or guarantor, may satisfy the requirements of § 4 by passing a financial test as specified in this section. To pass the financial test of self-insurance, the owner or operator or petroleum storage tank vendor, and/or guarantor of 1 to 33 tanks must meet the requirements of subsections B or C, and F of this section, as applicable under § 4 B, based on year-end financial statements for the latest completed fiscal year. To pass the financial test of self-insurance, the owner or operator or petroleum storage tank vendor, and/or guarantor of greater than 33 tanks must meet the requirements of subsections D or E, and F of this section, as applicable under § 4 B, based on year-end financial statements for the latest completed fiscal year.

B.1. The owner or operator, petroleum storage tank vendor, and/or guarantor must have a tangible net worth of at least equal to the total of the applicable aggregate amount required by § 4 B 1 through 4 B 4 based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility;

2. The owner or operator, petroleum storage tank vendor, and/or guarantor must also have a tangible net worth of at least 10 times:

a. The sum of the corrective action cost estimates, the current closure and postclosure care cost estimates, and amount of liability coverage for which a financial test is used in each state of business operations to demonstrate financial responsibility to the EPA under 40 CFR §§ 264.101(b), 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 and the Department of Waste

Management under VR 672-10-1 §§ 10.5 L, 10.7 C, 10.7 E, 9.7 C, 9.7 E, 10.7 G, 9.7 G (Virginia Hazardous Waste Management Regulations); and

b. The sum of current plugging and abandonment cost estimates for which a financial test is used in each state of business operations to demonstrate financial responsibility to EPA under 40 CFR § 144.63;

3. The owner and operator or petroleum storage tank vendor and/or guarantor must comply with subdivision a or b below:

a.(1) The fiscal year-end financial statements of the owner or operator or petroleum storage tank vendor and/or guarantor must be examined by an independent certified public accountant and be accompanied by the accountants report of the examination; and

(2) The firms year-end financial statements cannot include an adverse auditors opinion, a disclaimer of opinion, or a "going concern" qualification.

b.(1)(a) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or

(b) Report annually the firms tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A; and

(2) The firms year-end financial statements, if, independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

4. The owner or operator or petroleum storage tank vendor and/or guarantor must have a letter signed by the chief financial officer worded identically as specified in Appendix I /Alternative I.

C.1. The owner or operator or petroleum storage tank vendor and/or guarantor must have a tangible net worth of at least equal to the total of the applicable aggregate amount required by § 4 B 1 through 4 B 4 based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility;

2. The owner or operator or petroleum storage tank vendor and/or guarantor must also meet the financial test requirements of VR 672-10-1 § 10.7 G 6 Virginia Hazardous Waste Management Regulations, substituting the appropriate amounts specified in §§ 4 B 1 through 4 B 4 for the "amount of liability coverage" and "tangible net worth" each time specified in that section.

General Notices/Errata

3. The fiscal year-end financial statements of the owner or operator or petroleum storage tank vendor and/or guarantor must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

4. The firms year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

5. If the financial statements of the owner or operator or petroleum storage tank vendor and/or guarantor are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration, the owner or operator or petroleum storage tank vendor and/or guarantor must obtain a special report by an independent certified public accountant stating that:

a. He has compared the data that the letter from the chief financial officer specified as having been derived from the latest year-end financial statements of the owner or operator or petroleum storage tank vendor and/or guarantor with the amounts in such financial statements; and

b. In connection with that comparison, no matters came to his attention which caused him to believe that the specified data should be adjusted.

6. The owner or operator or petroleum storage tank vendor and/or guarantor must have a letter signed by the chief financial officer, worded identically as specified in Appendix I/Alternative II.

D.1. The owner or operator or petroleum storage tank vendor and/or guarantor must have a tangible net worth of at least ten times:

a. The total of the applicable aggregate amount required by § 4 B 5 or § 4 B 6, based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility to the board under this section;

b. The sum of the corrective action cost estimates, the current closure and postclosure care cost estimates, and amount of liability coverage for which a financial test is used in each state of business operations to demonstrate financial responsibility to the EPA under 40 CFR §§ 264.101(b), 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 and the Department of Waste Management under VR 672-10-1 §§ 10.5 L, 10.7 C, 10.7 E, 9.7 C, 9.7 E, 10.7 G, 9.7 G (Virginia Hazardous Waste Management Regulations); and,

c. The sum of current plugging and abandonment cost estimates for which a financial test is used in

each state of business operations to demonstrate financial responsibility to EPA under 40 CFR § 144.63.

2. The owner or operator, petroleum storage tank vendor and/or guarantor must have a tangible net worth of at least \$10 million.

3. The owner or operator, petroleum storage tank vendor, and/or guarantor must either:

a. File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or

b. Report annually the firms tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

4. The firm's year-end financial statements, if, independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

5. The owner or operator, petroleum storage tank vendor, and/or guarantor must have a letter signed by the chief financial officer worded identically as specified in Appendix I/Alternative III.

E.1. The owner or operator, petroleum storage tank vendor, and/or guarantor must meet the financial test requirements of VR 672-10-1 § 10.7 G 6, substituting the appropriate amounts specified in § 4 B 5 and § 4 B 6 for the "amount of liability coverage" each time specified in that section.

2. The fiscal year-end financial statements of the owner or operator, petroleum storage tank vendor, or guarantor, or both, must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

3. The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

4. If the financial statements of the owner or operator, petroleum storage tank vendor and/or guarantor are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration, the owner or operator, petroleum storage tank vendor and/or guarantor must obtain a special report by an independent certified public accountant stating that:

a. He has compared the data that the letter from the chief financial officer specifies as having been

derived from the latest year-end financial statements of the owner or operator, petroleum storage tank vendor and/or guarantor with the amounts in such financial statements; and

b. In connection with that comparison, no matters came to his attention which caused him to believe that the specified data should be adjusted.

5. The owner or operator, petroleum storage tank vendor and/or guarantor must have a letter signed by the chief financial officer, worded identically as specified in Appendix I/Alternative IV.

F. To demonstrate that it meets the financial test under subsections B through E of this section, the chief financial officer of the owner or operator, petroleum storage tank vendor and/or guarantor must sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded identically as specified in Appendix I with the appropriate Alternative I through IV, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

G. If an owner or operator or petroleum storage tank vendor using the test to provide financial assurance finds that he no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator or petroleum storage tank vendor must obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

H. The board may require reports of financial condition at any time from the owner or operator, petroleum storage tank vendor and/or guarantor. If the board finds, on the basis of such reports or other information, that the owner or operator, petroleum storage tank vendor and/or guarantor no longer meets the financial test requirements of § 6 B or C or D or E and F, the owner or operator or petroleum storage tank vendor must obtain alternate coverage within 30 days after notification of such a finding.

I. If the owner or operator or petroleum storage tank vendor fails to obtain alternate assurance within 150 days of finding that he no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the board that he or she no longer meets the requirements of the financial test, the owner or operator or petroleum storage tank vendor must notify the board of such failure within 10 days.

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

BOARD FOR ACCOUNTANCY

† December 20, 1989 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) conduct regulatory review, (ii) adopt proposed regulations, and (iii) develop a work plan regarding R.D.I. Study.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† December 7, 1989 - 1 p.m. - Open Meeting
† December 8, 1989 - 8 a.m. - Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

A regular meeting of the board will be held to conduct business and receive reports from board committees and staff of the department.

Contact: Roy E. Seward, Secretary to the Board, Washington Bldg., 1100 Bank St., Room 210, Richmond, VA 23219, telephone (804) 786-3501

DEPARTMENT OF AIR POLLUTION CONTROL

December 6, 1989 - 6 p.m. - Public Briefing
December 6, 1989 - 7 p.m. - Public Hearing
Glade Hill Elementary School Gymnasium, Glade Hill, Virginia

A meeting to allow public comments on a permit application from Rockydale Quarries Corporation to construct and operate a stone crushing plant with a maximum annual production of 1,200,000 tons per year at Jacks Mountain in Franklin County.

Contact: Thomas Henderson, Director, Department of Air Pollution Control, Region III, 7701-03 Timberlake Rd., Lynchburg, VA 24502, telephone (804) 947-6641

ARLINGTON COUNTY/CITY OF FALLS CHURCH LOCAL EMERGENCY PLANNING COMMITTEE

† December 13, 1989 - 7:30 p.m. - Open Meeting
Arlington County Water Pollution Control Plant, 3401 South Glebe Road, Arlington, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to discuss an analysis of the county's disaster simulation exercise and the potential need for a full-time hazardous materials coordinator.

Contact: Thomas M. Hawkins, Jr., Chairman, Fire Department Administration, 2100 Clarendon Blvd., Suite 400, Arlington, VA 22201, telephone (703) 358-3365 or (703) 558-2096/TDD ☎

AUCTIONEERS BOARD

† December 14, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct (i) review of complaints, (ii) signing of certificates, (iii) discussion of revenue and expenditures, and (iv) informal fact-finding conference.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

December 12, 1989 - 3 p.m. - Open Meeting
December 13, 1989 - 9 a.m. - Open Meeting
Best Western Williamsburg Outlet Inn, Route 60,
Williamsburg, Virginia. ☒

A work session for regulatory review.

Contact: Meredyth P. Partridge, Executive Director, 1601
Rolling Hills Dr., Richmond, VA 23229-5005, telephone
(804) 662-9111

VIRGINIA AVIATION BOARD

† December 19, 1989 - 10 a.m. - Open Meeting
Best Western Airport Inn, 5700 Williamsburg Road,
Richmond, Virginia. ☒

A meeting to discuss matters of interest and concern
of aviation in Virginia.

Contact: Kenneth A. Rowe, Director, 4508 S. Laburnum
Ave., Richmond, VA 23231, telephone (804) 786-6284

BOARD FOR BARBERS

† December 18, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th
Floor, Richmond, Virginia. ☒

A meeting to (i) review enforcement cases, (ii) review
applications, (iii) review correspondence, and (iv)
conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W.
Broad St., Richmond, VA 23230-4917, telephone (804)
367-8590 or toll-free 1-800-552-3016 (VA only)

VIRGINIA BOATING ADVISORY BOARD

† January 11, 1990 - 10:30 a.m. - Open Meeting
Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia

A meeting to review and take action on issues,
legislation and regulations affecting Virginia's
recreational boating public.

Contact: Wayland W. Rennie, Chairman, 8411 Patterson
Ave., Richmond, VA 23229, telephone (804) 740-7206

BOARD FOR BRANCH PILOTS

December 13, 1989 - 10 a.m. - Open Meeting
Virginia Port Authority, World Trade Center, Suite 600,
Norfolk, Virginia. ☒

A quarterly business meeting to conduct routine
business.

Contact: Florence R. Brassier, Deputy Director,
Department of Commerce, 3600 W. Broad St., Richmond,
VA 23230, telephone (804) 367-8500 or toll-free
1-800-552-3016

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† December 15, 1989 - 10 a.m. - Open Meeting
Fourth Street State Office Building, 205 North Fourth
Street, Second Floor Conference Room, Richmond,
Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to (i) consider requests for interpretation of
the Virginia Uniform Statewide Building Code, (ii)
consider appeals from the rulings of local appeal
boards regarding application of the Virginia Uniform
Statewide Building Code, and (iii) approve minutes of
previous meeting.

Contact: Jack A. Proctor, 205 N. 4th St., Richmond, VA
23219, telephone (804) 786-4752

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

December 13, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room
A, Richmond, Virginia. ☒ (Interpreter for deaf provided if
requested)

A regular quarterly meeting. The board will elect
officers and conduct general business. The agenda will
be mailed to persons on the board mailing list on or
about December 4, 1989, and may be obtained by
calling Tina Halsted.

Contact: Tina Halsted, Staff Specialist, Chesapeake Bay
Local Assistance Department, 805 E. Broad St., Suite 701,
Richmond, VA 23219, telephone (804) 225-3440 or toll-free
1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

December 14, 1989 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building,
Conference Rooms A and B, 8007 Discovery Drive,
Richmond, Virginia. ☒ (Interpreter for deaf provided if
requested)

A meeting to discuss issues, concerns, and programs
that impact licensed child care centers. A public
comment period is scheduled at 9 a.m.

Contact: Peggy Friedenber, Legislative Analyst, Office of
Governmental Affairs, Department of Social Services, 8007
Discovery Dr., Richmond, VA 23229-8699, telephone (804)

Calendar of Events

662-9217 or SCATS 662-9217

VIRGINIA COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† December 6, 1989 - 10 a.m. - Open Meeting
Washington Building, 1100 Bank Street, Agriculture Board Room, Room 204, Richmond, Virginia. ☒

A regular business meeting.

Contact: Linda Sawyers, Director, Virginia Council on Child Day Care and Early Childhood Programs, Washington Bldg., 1100 Bank St., Suite 1116, Richmond, VA 23219, telephone (804) 371-8603

CONSORTIUM ON CHILD MENTAL HEALTH

December 6, 1989 - 9 a.m. - Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A regular business meeting open to the public, followed by an executive session for purposes of confidentiality; and to review applications for funding of services to individuals.

Contact: Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208 or SCATS 786-2208

DEPARTMENT FOR CHILDREN

State-Level Runaway Youth Services Network

January 18, 1990 - 10:30 a.m. - Open Meeting
Department of Corrections, 6900 Atmore Drive, Room 3056, Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Martha Frickert, Human Resources Developer, Department for Children, 805 E. Broad St., 11th Floor, Richmond, VA 23219, telephone (804) 786-5994

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

December 8, 1989 - 8:30 a.m. - Open Meeting
Interdepartmental Licensure and Certification, Office of the Coordinator, Tyler Building, 1603 Santa Rosa Drive, Suite 210, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented

to the committee.

Contact: John Allen, Coordinator, Interdepartmental Licensure and Certification, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124 or SCATS 662-7124

DEPARTMENT OF COMMERCE

January 10, 1989 - 10 a.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: VR 190-05-01. **Asbestos Licensing Regulations.** The amendments to the Virginia Asbestos Licensing Regulations include RFS contractor licensure requirements, qualifications for inspector and management planner license, contractor notification requirements and revisions of license application procedures.

Statutory Authority: § 54.1-500 et seq. of the Code of Virginia.

Written comments may be submitted until January 19, 1990.

Contact: Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595

BOARD FOR CONTRACTORS

† December 12, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A special meeting of the board to consider possible legislative proposals. The meeting is open to the public and will be immediately followed by a meeting of the Applications Committee of the board.

Contact: Kelly G. Ragsdale, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

December 21, 1989 - 10 a.m. - Open Meeting
Council Chambers, Municipal Building, 215 Church Avenue, Roanoke, Virginia

The board will meet to conduct a formal hearing:

File Numbers 87-00516, 87-00575
Board for Contractors v. Jack R. Black, Jr.
and Application for License Renewal

Calendar of Events

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

BOARD OF CORRECTIONS

December 13, 1989 - 10 a.m. - Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

BOARD FOR COSMETOLOGY

† December 11, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review enforcement cases, (ii) review applications, (iii) review correspondence, and (iv) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

CRIMINAL JUSTICE SERVICES BOARD

Committee on Criminal Justice Information Systems

December 7, 1989 - 10 a.m. - Open Meeting
Governor's Cabinet Conference Room, Ninth Street Office Building, 9th and Grace Streets, 6th Floor, Richmond, Virginia. ☒

A meeting to discuss projects and business of the committee.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

BOARD OF DENTISTRY

December 6, 1989 - 11 a.m. - Open Meeting
Boar's Head Inn, Route 250 West, Charlottesville, Virginia

Informal conferences.

December 7, 1989 - 8:30 a.m. - Open Meeting
Boar's Head Inn, Route 250 West, Charlottesville, Virginia

Formal hearings.

December 8, 1989 - 8:30 a.m. - Open Meeting
December 9, 1989 - 8:30 a.m. - Open Meeting
Boar's Head Inn, Route 250 West, Charlottesville, Virginia

Regular board business and committee meetings.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9906

BOARD OF EDUCATION

December 4, 1989 - 8 a.m. - Open Meeting
December 5, 1989 - 8 a.m. - Open Meeting
January 11, 1990 - 8 a.m. - Open Meeting
January 12, 1990 - 8 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold regularly scheduled meetings. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: Margaret Roberts, Community Relations Office, Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540

DEPARTMENT OF EDUCATION (BOARD OF)

December 4, 1990 - 2 p.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Rooms C and D, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to repeal existing regulations and promulgate new regulations entitled: VR 270-01-0033. Regulations Governing Driver Education. The current Board of Education Regulations need to be clarified in the Code of Virginia to specify what is a "standardized program of driver education for public and nonpublic schools" and for commercial schools, how "comparable content and quality" is defined.

Statutory Authority: § 22.1-205 of the Code of Virginia.

Written comments may be submitted until February 5, 1990.

Contact: Jeane L. Bentley, Associate Director, Health, Physical Education and Driver Education, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2866

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

December 7, 1989 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001
Ironbridge Road, Chesterfield, Virginia. ☐

The committee will meet to discuss the requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Dept., P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

VIRGINIA EMPLOYMENT COMMISSION

January 3, 1990 - 10 a.m. - Public Hearing
Virginia Employment Commission, 703 East Main Street,
Administrative Office Courtroom, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-3. Virginia Employment Commission Regulations and General Rules - Benefits.** The regulations are being amended to provide guidance for the processing of claims for unemployment compensation in the areas of total and part-total unemployment, partial unemployment, interstate claims, combined wage claims, and miscellaneous benefit provisions.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until December 26, 1989.

Contact: Joseph L. Hayes, Manager Administration/Appeals, 703 E. Main St., Room 302, Richmond, VA 23211, telephone (804) 786-7554

COUNCIL ON THE ENVIRONMENT

Executive Council of the Chesapeake Bay Program

December 19, 1989 - 10:30 a.m. - Open Meeting
U.S. Navy Yard, Washington, D.C.

An annual meeting of the executive council of the regional, intergovernmental Chesapeake Bay Program. Primary purpose of the meeting is to report on progress made in 1989 and to look ahead to 1990. (In order to obtain entrance to the Washington Navy Yard an identification card with a photograph (driver's license, etc.) is required.)

Contact: Sharon Anderson, Assistant Administrator for Chesapeake Bay and Coastal Programs, Virginia Council on

the Environment, 202 N. 9th St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500

LOCAL EMERGENCY PLANNING COMMITTEE FOR FAIRFAX COUNTY, THE CITY OF FAIRFAX, AND THE TOWNS OF HERNDON AND VIENNA

† **December 14, 1989 - 10 a.m. - Open Meeting**
John C. Wood Municipal Center, Lee Highway, Fairfax,
Virginia. ☐

A regular meeting.

Contact: Eileen McGovern, 4031 University Dr., Fairfax, VA 22030, telephone (703) 246-2331

FAMILY AND CHILDREN'S TRUST FUND

Board of Trustees

† **December 8, 1989 - 10 a.m. - Open Meeting**
Patrick Henry Best Western, Williamsburg, Virginia

A regular meeting of the Board of Trustees.

Contact: Mary Mullins, Executive Director, Blair Bldg., 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217 or SCATS 662-9217

VIRGINIA FIRE SERVICES BOARD

December 8, 1989 - 10 a.m. - Open Meeting
Sheraton Park South Hotel, 9901 Midlothian Turnpike,
Richmond, Virginia. ☐

The Training and EMS Committee will hear presentations, consider requests and decide on recommendations to be made to the Fire Services Board on applications for funds to construct, improve or expand regional fire training centers.

Contact: Carl N. Cimino, Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2681

† **December 15, 1989 - 9 a.m. - Open Meeting**
Sheraton Park South Hotel, Eppington Room, 9901
Midlothian Turnpike, Richmond, Virginia. ☐

A regular business meeting of the board. The meeting is open to the public for their input and comments.

Fire Prevention Committee

† **December 14, 1989 - 9 a.m. - Open Meeting**
Sheraton Park South Hotel, Annex No. 1, 9901 Midlothian
Turnpike, Richmond, Virginia. ☐

A committee meeting to discuss fire training and fire policies. The meeting is open to the public for their input.

Legislative Committee

† December 14, 1989 - 1 p.m. - Open Meeting
Sheraton Park South Hotel, Salisbury Room, 9901
Midlothian Turnpike, Richmond, Virginia. ☒

A committee meeting to discuss fire training and fire policies. The meeting is open to the public for their input.

Training/EMS Education Committee

† December 14, 1989 - 1 p.m. - Open Meeting
Sheraton Park South Hotel, Bon Air Room, 9901 Midlothian
Turnpike, Richmond, Virginia. ☒

A committee meeting to discuss fire training and fire policies. The meeting is open to the public for their input.

Contact: Anne J. Bales, Executive Secretary Senior, James
Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA
23219, telephone (804) 225-2681

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† December 4, 1989 - 9 a.m. - Open Meeting
† January 10, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia

A general board meeting. Emergency preneed
regulations and proposed regulations may be discussed.

† January 9, 1990 - 3 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Conference Room 2, Richmond, Virginia

Informal fact-finding conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601
Rolling Hills Dr., Richmond, VA 23229-5005, telephone
(804) 662-9907

DEPARTMENT OF GAME AND INLAND FISHERIES

December 9, 1989 - 8 a.m. - Open Meeting
December 10, 1989 - 8 a.m. - Open Meeting
Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia

A staff working session to discuss long range planning
for the agency.

† January 12, 1990 - 10 a.m. - Public Hearing

Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia

A public hearing on the advisability of adopting, or
amending and adopting, proposed regulations, or any
part thereof.

Contact: Nancy B. Dowdy, Agency Regulatory Coordinator,
4010 W. Broad St., Richmond, VA 23230, telephone (804)
367-1000

BOARD OF HEALTH

December 13, 1989 - 9 a.m. - Open Meeting
Department of Health, James Madison Building, 109
Governor Street, Richmond, Virginia. ☒

A working session will be held.

December 14, 1989 - 9 a.m. - Open Meeting
Department of Health, James Madison Building, 109
Governor Street, Richmond, Virginia. ☒

A regular business meeting will be held.

Contact: Sarah H. Jenkins, Secretary to the Board,
Department of Health, 109 Governor St., Richmond, VA
23219, telephone (804) 786-3561

DEPARTMENT OF HEALTH (STATE BOARD OF)

December 7, 1989 - 2 p.m. - Public Hearing
James Madison Building, Room 1000, 10th Floor
Conference Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board of Health
intends to amend regulations entitled: **VR 355-11-02.02.
Regulations Governing the Newborn Screening and
Treatment Program.** The rules and regulations
governing the newborn screening and treatment
program have been revised and amended to include
genetic, metabolic, and other diseases of the newborn
as specified in §§ 33.1-12 and 32.1-65 et seq. of the
Code of Virginia. They specifically clarify the critical
time periods for submitting newborn screening tests in
an effort to more accurately screen and diagnose
newborn diseases.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 (§
32.1-65 et seq.) of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics
Director, Maternal and Child Health, 109 Governor St., 6th
Floor, Richmond, VA 23219, telephone (804) 786-7367,
SCATS 786-7367

Calendar of Events

* * * * *

December 8, 1989 - 10 a.m. - Public Hearing
James Madison Building, Main Floor Conference Room,
109 Governor Street, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **VR 355-12-02. State Plan for the Provision of Children's Specialty Services.** The proposed plan will revise the present State Plan of May 1, 1987. The proposals include clarification of covered services, the setting of eligibility resources, limitation for patients receiving large awards through litigation, modified eligibility criteria and addition of Child Development Services Program.

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Written comments may be submitted until January 5, 1990.

Contact: Nancy R. Bullock, R.N., Nurse Consultant, Children's Specialty Services, Virginia Department of Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-3691, SCATS 786-3691

* * * * *

January 8, 1990 - 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 Health intends to amend regulations entitled: **VR 355-27-01.01. Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualifications for Noncommercial and Commercial Blood Banks.** These regulations define the licensure standards and procedures for commercial and noncommercial blood banks.

Statutory Authority: §§ 32.1-12 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: A. Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261

VIRGINIA HEALTH PLANNING BOARD

January 8, 1990 - 9 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of

the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-01-01. Guidelines for Public Participation in Developing Regulations.** This regulation sets forth the mechanism by which interested parties may assist the Virginia Health Planning board in developing its regulations.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * *

January 8, 1990 - 9 a.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 Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-01. Regulations for Designating Health Planning Regions.** This regulation establishes the process for designating health planning regions and sets forth the characteristics required as a condition of such designations.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * *

January 8, 1990 - 9 a.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 Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-02. Regulations Governing the Regional Health Plannings Boards.** This regulation establishes the required characteristics of a regional health planning board.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * *

662-9904

January 8, 1990 - 9 a.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 Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.** This regulation establishes the process for designating regional health planning agencies and sets forth the characteristics that are required for such designation.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * *

January 8, 1990 - 9 a.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 Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-03-01. Administration of State Funding for Regional Health Planning.** This regulation establishes the administrative rules for distributing state funds appropriated for regional health planning.

Statutory Authority: §§ 32.1-122.02 and 32.1-122.06 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

DEPARTMENT OF HEALTH PROFESSIONS

Task Force on Practice of Nurse Practitioners

† **December 11, 1989 - 9:30 a.m. - Open Meeting**
Virginia Center for Health Affairs, 4200 Innslake Drive,
Board Room, Glen Allen, Virginia. ☒

A meeting to continue the study of access and barriers to the services of nurse practitioners in the Commonwealth.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804)

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **December 19, 1989 - 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: G. Edward Dalton, Deputy Director, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION

December 6, 1989 - 10 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor,
Richmond, Virginia. ☒

A monthly meeting. Agenda available upon request.

Contact: Dr. Barry M. Dorsey, Associate Director, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2632

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources and State Review Board (Joint Meeting)

† **December 12, 1989 - 10 a.m. - Open Meeting**
State Capitol, Capitol Square, Senate Room 4, Richmond,
Virginia. ☒

A general business meeting. The State Review Board will consider the nominations of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

Eagle's Nest, King George Co.
Emmanuel Church, Powhatan County
Fleetwood Farm, Loudoun County
Massaponex Church, Spotsylvania County
McKenney House, Petersburg
Marl Hill, New Kent County
Morven, Cumberland County
Endview, Newport News
Newsome House, Newport News
Willow Shade, Frederick County
Monument Avenue, Historic District (boundary expansion), Richmond City
Second Presbyterian Church, Petersburg

Board of Trustees of the Preservation Foundation

† **December 14, 1989 - 10 a.m. - Open Meeting**
601 Market Street (Headquarters of Preservation Alliance

Calendar of Events

of Virginia), Charlottesville, Virginia

A general business meeting.

Contact: Margaret T. Peters, Information Officer, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-4276/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

December 5, 1989 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

December 11, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

This meeting is being held to receive public input regarding the Board of Housing and Community Development's intent to amend the 1987 editions of the Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code, and the Virginia Statewide Fire Prevention Code, regarding the installation of fire suppression and alarm systems in existing buildings to include nursing homes, homes for adults, hospitals and other institutional uses (Use Group I).

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **December 19, 1989 - 10 a.m. - Open Meeting**
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the board may also meet before or after the regular meeting

and consider matters within their purview. The planned agenda of the meeting will be available at the office of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986

COUNCIL ON INFORMATION MANAGEMENT

† **December 11, 1989 - 9 a.m. - Open Meeting**
Washington Building, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. #FT300 5

A regular council meeting.

Contact: Linda W. Hening, Administrative Assistant, Washington Bldg., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

December 7, 1989 - 9 a.m. - Open Meeting
Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☒

A working/planning session of the council.

Virginia Apprenticeship Council/Safety and Health Codes Board

December 6, 1989 - 2 p.m. - Open Meeting
Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☒

An orientation session for the council and board members.

Contact: Lilia Williams, Information Director, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 371-8589

LIBRARY BOARD

January 18, 1990 - 9:30 a.m. - Open Meeting
Virginia State Library and Archives, 11th Street at Capitol Square Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

* * * * *

† February 4, 1990 – 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 Library Board intends to adopt regulations entitled: **VR 440-01-149.2. Certification of Librarians.** The purpose of this regulation is to establish qualifications for certification of professional librarians in certain public libraries and establish fees.

STATEMENT

The State Library Board has been given the responsibility and authority by the General Assembly, pursuant to § 42.1-15.1 of the Code of Virginia, for the establishment of qualifications of professional librarians in certain public libraries. The State Library Board hereby enacts the following regulations to implement and interpret its authority over public librarian qualifications. These regulations supersede all previous regulations on this subject enacted by this board.

Statutory Authority: § 42.1-15.1 of the Code of Virginia.

Written comments may be submitted until February 4, 1990.

Contact: Ella Gaines Yates, State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

COMMISSION ON LOCAL GOVERNMENT

† January 8, 1990 - 10 a.m. – Open Meeting
Site to be determined, Richmond, Virginia

A regular meeting of the commission to consider such matters as may be presented.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD

LONGWOOD COLLEGE

December 8, 1989 - 10 a.m. – CANCELLED
† December 19, 1989 - 9:30 a.m. – Open Meeting
Ruffner Building, Longwood College, Board Room, Farmville, Virginia. ☐

† January 19, 1990 - noon – Open Meeting
† January 20, 1990 - noon – Open Meeting
Richmond Omni Hotel, Richmond, Virginia. ☐

A meeting to conduct business pertaining to the governance of the institution.

Contact: William F. Dorrill, President, Longwood College, Farmville, VA 23901, telephone (804) 395-2001

STATE LOTTERY BOARD

† December 20, 1989 - 10 a.m. – Open Meeting
State Lottery Department, 2201 West Broad Street, Conference Room, 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, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433

VIRGINIA MARINE PRODUCTS BOARD

December 6, 1989 - 5:30 p.m. – Open Meeting
Virginia Institute of Marine Science, Watermen's Hall, Director's Conference Room, Gloucester Point, Virginia

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on financing, marketing, past and future program planning, publicity/public relations, and old/new business.

Contact: Shirley Estes Berg, 97 Main St., Suite 103, Newport News, VA 23601, telephone (804) 594-7261

MARINE RESOURCES COMMISSION

† December 5, 1989 - 9:30 a.m. – Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☐

A meeting to hear and decide cases on fishing licensing, oyster ground leasing, environmental permits in wetlands bottomlands, coastal sand dunes and beaches. The commission hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Sandra S. Schmidt, Secretary to the Commission, 2600 Washington Ave., Room 303, Newport News, VA 23607-0756, telephone (804) 247-2208

Calendar of Events

BOARD OF MEDICINE

December 8, 1989 - 9 a.m. - Public Hearing
Department of Health Professions, 1601 Rolling Hills Drive,
Board Room 1, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to adopt regulations entitled: **VR 465-07-01. Certification of Optometrists.** The proposed regulations establish requirements for postgraduate training in therapeutic and pharmaceutical agents, clinical training, and examinations necessary to certify licensed optometrists to administer therapeutic pharmaceutical agents in the treatment of diseases of the eye.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until December 22, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925

Ad Hoc Committee on Optometry

December 8, 1989 - 1 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Board Room 1, Richmond, Virginia. ☐

The committee will review public comments received during the public hearing and discuss the postgraduate training programs and review the Request for Proposal for development of the certification examination of optometrists to treat certain diseases of the human eye with certain therapeutic pharmaceutical agents, and other items which may come before the committee.

† **February 2, 1990 - 2 p.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, 2nd Floor, Board Room 1, Richmond,
Virginia. ☐

The committee will review and discuss the post graduate training programs and the development of an examination for certification of optometrists to treat certain diseases of the human eye with certain therapeutic pharmaceutical agents, and other items which may come before the committee.

Chiropractic Examination Committee

† **January 18, 1990 - 1:30 p.m. - Executive Session**
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, 2nd Floor, Board Room 2, Richmond,
Virginia. ☐

The committee will meet in executive session to

develop test questions for the June 1990 Chiropractic Examination.

Credentials Committee

December 9, 1989 - 8:15 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, Board Room 1, 2nd Floor, Richmond,
Virginia. ☐

A meeting to (i) conduct general business, (ii) conduct interviews, (iii) review medical credentials of applicants applying for licensure in Virginia, and (iv) discuss any other items which may come before this committee.

Executive Committee

† **February 2, 1990 - 9 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, 2nd Floor, Board Room 1, Richmond,
Virginia. ☐

The committee will meet in open session to review closed cases, cases/files requiring administrative actions and consider any other items which may come before the committee.

Legislative Committee

† **January 19, 1990 - 9 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive,
Board Room 1, Surry Building, 2nd Floor, Richmond,
Virginia. ☐

The committee will meet to review and respond to public comments received in response to proposed regulations VR 465-05-01, Physician's Assistants; VR 465-07-01, Certification of Optometrists; proposed amendments to VR 465-03-01, Practice of Physical Therapy; and other matters which may be presented for discussion and consideration for recommendations to the full board.

Advisory Board on Occupational Therapy

January 12, 1990 - 10 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, Board Room 2, 2nd Floor, Richmond,
Virginia. ☐

A meeting to review the Administrative Process Act and the Freedom of Information Act and to develop bylaws for conducting business.

Advisory Board on Physical Therapy

† **January 26, 1990 - 9 a.m. - Open Meeting**
Embassy Suites Hotel, 2925 Emerywood Parkway, Section
D/Ballroom, Richmond, Virginia. ☐

Calendar of Events

A meeting to review and discuss regulations, bylaws, procedural manuals, receive reports, and other items which may come before the board.

Contact: Eugenia K. Dorson, Deputy Executive Director, 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

† **December 13, 1989 - 9:30 a.m.** - Open Meeting
Northwestern Community Services Board, Winchester, Virginia. ☐

A regular monthly meeting. Agenda to be published on December 6 and may be obtained by calling Jane Helfrich.

Tuesday evening - Committee meeting 6 p.m., Informal session 8:30 p.m.
Wednesday - Legislative breakfast 7:30 a.m., Regular session 9:30 a.m. (See agenda for location)

Contact: Jane Helfrich, Board Administrator, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Virginia Interagency Coordinating Council

December 6, 1989 - 9 a.m. - Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg, Virginia. (Interpreter for deaf provided if requested)

A meeting of the council according to P.L. 99-457, Part H early intervention program for disabled infants and toddlers and their families is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services, as lead agency, to develop and implement a statewide interagency early intervention program.

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

Mental Retardation Advisory Council

December 5, 1989 - 9:30 a.m. - Open Meeting
James Madison Building, 109 Governor Street, 10th Floor Conference Room, Richmond, Virginia. ☐

A quarterly meeting to conduct business relative to the council's responsibility for advising the State Mental Health, Mental Retardation and Substance Abuse Services Board on issues pertaining to mental

retardation. Agenda will be available November 29, 1989.

Contact: Stanley J. Butkus, Ph.D., Director of Mental Retardation, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1746

MILK COMMISSION

† **December 13, 1989 - 10 a.m.** - Open Meeting
1015 Ninth Street Office Building, Ninth and Grace Streets, Richmond, Virginia. ☐

A routine monthly meeting.

† **December 13, 1989 - 11 a.m.** - Public Hearing
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A public hearing to receive evidence and testimony relative to amending rules and regulations. (See General Notices section for additional information.)

Contact: C. H. Coleman, Administrator, 1015 Ninth Street Office Bldg., Ninth and Grace Sts., Richmond, VA 23219, telephone (804) 786-2013

DEPARTMENT OF MINES, MINERALS AND ENERGY

† **December 19, 1989 - 10 a.m.** - Open Meeting
Dalton-Cantrell Auditorium, Mountain Empire Community College, Big Stone Gap, Virginia. ☐

A meeting to receive comments on the advisability of amendments to the fuel standards and the air-quality standards in the rules and regulations governing the use of diesel-powered equipment in underground coal mines.

Contact: Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330

COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

† **December 12, 1989 - 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

Calendar of Events

DEPARTMENT OF MOTOR VEHICLES

December 4, 1989 - 9:30 a.m. - Public Hearing
Department of Motor Vehicles, 2300 West Broad Street,
Cafeteria, Richmond, Virginia

December 5, 1989 - 10:30 a.m. - Public Hearing
Springfield Volunteer Fire Department, 7011 Backlick
Road, Springfield, Virginia

December 6, 1989 - 10:30 a.m. - Public Hearing
James Madison University, Warren Campus Center,
Harrisonburg, Virginia

December 7, 1989 - 10:30 a.m. - Public Hearing
Norfolk Scope - Little Hall, St. Paul Boulevard and
Brambleton Avenue, Norfolk, Virginia

December 12, 1989 - 10:30 a.m. - Public Hearing
Virginia Highlands Community College, Abingdon, Virginia

December 13, 1989 - 10:30 a.m. - Open Meeting
Holiday Inn - South, 1927 Franklin Road, Roanoke, Virginia

December 14, 1989 - 10:30 a.m. - Public Hearing
Holiday Inn - South Hill, I-85 and U.S. 58, South Hill,
Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **VR 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.** These regulations relate to (i) the violations of regulated advertising practices which could be considered unfair, deceptive or misleading acts or practices; (ii) the terms, conditions and disclaimers in all forms of advertising media; and (iii) the steps involved in the enforcement process (to include administrative and civil penalties, along with the judicial review process).

Statutory Authority: §§ 46.1-26, 46.1-520 and 46.1-550.5:41 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: William A. Malanima, Manager, Dealer and Records Division, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0455 or SCATS 367-0455

Medical Advisory Board

December 13, 1989 - 12:30 p.m. - Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Karen Ruby, Assistant Division Manager,

Department of Motor Vehicles, 2300 W. Broad St.,
Richmond, VA 23220, telephone (804) 367-0406

MOUNT ROGERS ALCOHOL SAFETY ACTION PROGRAM

Board of Directors

December 6, 1989 - 1 p.m. - Open Meeting
Oby's Restaurant, Marion, Virginia. ☒ (Interpreter for deaf provided if requested)

The board meets every other month to conduct business. The order of business shall be as follows: (i) call to order, (ii) roll call, (iii) approval of minutes, (iv) unfinished business, (v) new business, and (vi) adjournment.

Contact: J. L. Reedy, Jr., Director, Mount Rogers ASAP, 1102 N. Main St., Marion, VA 23454, telephone (703) 783-7771

BOARD OF NURSING

† **December 11, 1989 - 9 a.m. - Open Meeting**
Sheraton-Fredericksburg, Board Room, I-95 and State Route 3, Fredericksburg, Virginia. ☒ (Interpreter for deaf provided if requested)

† **December 19, 1989 - 9:30 a.m. - Open Meeting**
Hampton University School of Nursing, Room 131, Hampton, Virginia. ☒ (Interpreter for deaf provided if requested)

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.

December 14, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Special meeting to consider comments on existing regulations and to develop proposed new and amended regulations as described in the Notice of Intended Regulatory Action published in the Virginia Register of Regulations on July 31, 1989. Other matters under the jurisdiction of the board may be considered.

Special Conference Committee

† **December 12, 1989 - 8:30 a.m. - Open Meeting**
† **December 15, 1989 - 8:30 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A Special Conference Committee comprised of three members of the Virginia Board of Nursing, will 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

BOARD OF NURSING HOME ADMINISTRATORS

December 6, 1989 - 8 a.m. - Open Meeting
December 7, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

National and state examinations will be given to applicants for licensure for nursing home administrators.

Board committee meetings.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9111

BOARD OF OPTOMETRY

December 8, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Surry Building, Richmond, Virginia

The board will conduct general business and informal conferences.

Contact: Catherine Walker Green, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9910

POLYGRAPH EXAMINERS ADVISORY BOARD

† **December 6, 1989 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting for the purpose of administering the Polygraph Examiners Licensing examination to eligible polygraph examiner interns.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

BOARD OF PROFESSIONAL COUNSELORS

† **December 15, 1989 - 9 a.m. - Open Meeting**

Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) discuss general board business, including committee reports and response to correspondence; (ii) conduct certification of the results of the board's oral examinations for professional counselor licensure and substance abuse counselor certification; and (iii) conduct regulatory review.

Contact: Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9912

BOARD OF PSYCHOLOGY

† **December 7, 1989 - 9 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) review applications for licensure, residency, and registrations as Technical Assistants; and (iii) discuss written examinations.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9913

VIRGINIA RACING COMMISSION

† **December 20, 1989 - 9:30 a.m. - Open Meeting**
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A regular commission meeting.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

* * * * *

December 20, 1989 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-01-02. Regulations Pertaining to Horse Racing with Pari-mutuel Wagering.**

Statutory Authority: § 59.1-364 of the Code of Virginia.

Written comments may be submitted until January 20, 1990, to Donald Price, Executive Secretary, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

Calendar of Events

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

RAPPAHANNOCK-RAPIDAN DIVISION OF COURT SERVICES EXECUTIVE BOARD

† December 18, 1989 - 6:30 p.m. - Open Meeting
155 West Davis Street, Room 206, Culpeper, Virginia

A quarterly business meeting of the District Nine Virginia Alcohol Safety Action Program.

Items for review: budget, personnel, activities and the 88-89 audit report.

Contact: R. Dean Irvine, Director, 155 W. Davis St., Culpeper, VA 22701, telephone (703) 825-4550

REAL ESTATE BOARD

December 7, 1989 - 10 a.m. - Open Meeting
December 8, 1989 - 10 a.m. - Open Meeting
Council Chambers, Municipal Building, 215 Church Avenue, 4th Floor, Roanoke, Virginia

The board will meet to conduct a formal hearing:

File Numbers 86-00183, 87-01417, 88-01102
The Real Estate Board v. Floyd Earl Frith

and

File Numbers 86-00183, 87-01417
The Real Estate Board v. Kenneth Gusler, Jr.

December 15, 1989 - 10 a.m. - Open Meeting
Council Chambers, City Hall, Second Floor, 7th and Main Streets, Charlottesville, Virginia

The board will meet to conduct a formal hearing:

File Number 89-00696

The Real Estate Board V. James E. Craig

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

BOARD OF REHABILITATIVE SERVICES

January 25, 1990 - 9:30 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will receive department reports, consider regulatory matters and conduct the regular business of

the board.

Finance Committee

January 24, 1990 - 2 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review monthly financial reports and budgetary projections.

Legislation and Evaluation Committee

January 24, 1990 - 4 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review pending federal and state legislation and develop criteria for evaluation of department programs.

Program Committee

January 24, 1990 - 3 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review vocational rehabilitation regulation proposals and explore options for developing amendments to current VR regulations.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD ☎ or (804) 367-0280/TDD ☎

BOARD FOR RIGHTS OF THE DISABLED

NOTE: EXTENSION OF WRITTEN COMMENT PERIOD
† December 31, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Rights of the Disabled intends to adopt regulations entitled: **VR 602-01-2. Nondiscrimination Under State Grants and Programs.** These regulations prohibit discrimination on the basis of disability by programs or activities receiving state funds.

Statutory Authority: §§ 51.5-33 A 7 and 51.5-40 of the Code of Virginia.

Written comments may be submitted until December 31, 1989.

Contact: Bryan K. Lacy, Systems Advocacy Attorney, Department for Rights of the Disabled, 101 N. 14th St., 17th Floor, James Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† December 14, 1989 - 10 a.m. - Open Meeting
VSBFA's Offices at 1021 East Cary Street, 14th Floor Boardroom, Richmond, Virginia

The authority will conduct its regular business meeting and will conduct a public hearing to consider Industrial Development Bond Applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation.

Contact: Cathleen M. Surface, Virginia Small Business Financing Authority, 1021 E. Cary St., Richmond, VA 23206-0798, telephone (804) 371-8254

STATE BOARD OF SOCIAL SERVICES

December 20, 1989 - 2 p.m. - Open Meeting
December 21, 1989 - 9 a.m. - Open Meeting (If Necessary)
Department of Social Services, 8007 Discovery Drive, Richmond, 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

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

† January 20, 1990 - 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 State Board of Social Services intends to amend regulations entitled: VR 615-01-2. Lump Sum Ineligibility Period in the Aid to Dependent Children (ADC) Program. The proposed amendment deletes language giving final authority to the local social services agency for decisions regarding conditions that could shorten the period of ineligibility established due to the receipt of a lump sum.

STATEMENT

Subject: These regulations remove final authority of local social services agencies to decide if lump sum moneys are no longer available to a family for reasons beyond the family's control.

Substance: Federal regulations require that a period of ineligibility be established when a family receives a lump sum payment. The period of ineligibility may be shortened when it is determined that the lump sum is unavailable to

the family for reasons beyond its control. Federal regulations require a state to define unavailability of a lump sum, and to specify the reasons that are to be considered beyond the control of the family. Currently, Virginia's ADC policy gives final authority to local social services agencies for decisions regarding reasons beyond the control of the family that caused the unavailability of the lump sum.

The State Board of Social Services is proposing to clarify this policy. This clarification will ensure that clients have the right to appeal local agency decisions.

Issues: Under current policy approved by the State Board of Social Services, final authority for decisions regarding conditions that could shorten the period of ineligibility due to the receipt of a lump sum rests with the local agency. The proposed regulation will ensure that clients have the right to appeal the local agency decision as they do for other eligibility factors. Additionally, it will encourage equitable treatment of cases throughout the state.

Basis: Section 63.1-25 of the Code of Virginia delegates authority to the State Board of Social Services to promulgate rules and regulations necessary for operation of public assistance programs in Virginia. 45 Code of Federal Regulations § 233.20(a)(3)(ii)(F)(3), in the administration of the Aid to Dependent Children (ADC) Program, requires a state to include a definition of unavailability of lump sum payments and to specify the reasons that are beyond the control of the family.

Purpose: The purpose of the proposed regulation is to clarify policy regarding unavailability of lump sum payments which would otherwise render an ADC case ineligible for financial assistance. The amended regulation removes the statement that local social services agencies have final authority in making this determination and ensures that clients will be afforded an opportunity to appeal the local agency decision. This will encourage equitable treatment of cases throughout the Commonwealth.

Impact: If approved, all 124 local social services agencies will be required to implement this regulation. Presently, the Department of Social Services is aware of two local agencies in which the current regulation has been misapplied. A review of appeals relative to this issue indicates amending the regulation will have no fiscal impact.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until January 20, 1990, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217

Calendar of Events

* * * * *

December 23, 1989 - 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 Social Services intends to amend regulations entitled: **VR 615-01-26. Aid to Dependent Children (ADC) Programs - Deprivation Due to the Incapacity of a Parent.** The purpose of the proposed action is to amend Aid to Dependent Children (ADC) Program policy to require the limited employment opportunities of handicapped individuals to be considered in the determination of eligibility for ADC based on a parent's incapacity. The regulation is being amended in order to comport with federal regulations at 45 CFR § 233.90(a).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until December 23, 1989, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

VIRGINIA SOIL AND WATER CONSERVATION BOARD

December 6, 1989 - 9 a.m. - Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia

A regular bi-monthly meeting and joint meeting with the Virginia Association of Soil and Water Conservation Districts.

Contact: Donald L. Wells, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064

VIRGINIA SOYBEAN BOARD

† **December 12, 1989 - 10:30 a.m.** - Open Meeting
Williamsburg Hilton and Conference Center, Williamsburg, Virginia

The board will meet in regular session to receive reports related to the Virginia Soybean industry.

Contact: W. Rosser Cobb, IV, Secretary, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710

DEPARTMENT OF TAXATION

December 11, 1989 - 10 a.m. - Public Hearing
NOTE: CHANGE IN HEARING LOCATION
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 Department of Taxation intends to adopt regulations entitled: **Virginia Tire Tax Regulations (VR 630-27-640. Definitions; VR 630-27-641. Imposition of the Tax; VR 360-27-642. Collection of the Tax, Exemptions, Deductions; VR 630-27-643. Disposition of Revenue; VR 630-27-644. Provision of Chapter 6 of Title 58.1 to apply Mutatis Matundis).** The regulations set forth the application of the Virginia Tire Tax to the retail sales of new tires.

Statutory Authority: § 58.1-203 of the Code of Virginia

Written comments may be submitted until December 11, 1989.

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

* * * * *

January 5, 1990 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-1-1805.1. General Provisions: Padlocking Premises.**

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

Written comments may be submitted until January 5, 1990

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010

TIDEWATER VASAP POLICY BOARD

† **December 7, 1989 - 4:30 p.m.** - Open Meeting
Virginia Beach Resort Hotel and Conference Center, Virginia Beach, Virginia. ☐

A meeting to review the annual audit, review financial status and general business.

Contact: Kelly L. Smith, Board Secretary, 5163 Cleveland St., Virginia Beach, VA 23462, telephone (804) 552-1825

COMMONWEALTH TRANSPORTATION BOARD

December 21, 1989 - 10 a.m. - Open Meeting
Department of Transportation, 1401 East Broad Street,
Board Room, Richmond, Virginia. ☒ (Interpreter for deaf
provided if requested)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA, telephone (804) 786-9950

TRANSPORTATION SAFETY BOARD

December 8, 1989 - 9:30 a.m. - Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Richmond, Virginia. ☒

A meeting to discuss various subjects which pertain to transportation safety.

Contact: John T. Hanna, Deputy Commissioner for Transportation Safety, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-6620 or (804) 367-1752/TDD ☎

TREASURY BOARD

December 20, 1989 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

A monthly meeting.

Contact: Betty A. Ball, Department of Treasury, 101 N. 14th St., James Monroe Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142

BOARD OF VETERINARY MEDICINE

December 6, 1989 - 8:30 a.m. - Open Meeting
Koger Building, 8001 Franklin Farms Drive, Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Informal conferences.

Contact: Terri H. Behr, 1601 Rolling Hills Dr., Richmond, VA, telephone (804) 662-9915

VIRGINIA MILITARY INSTITUTE

Board of Visitors

January 27, 1990 - 8:30 a.m. - Open Meeting
Virginia Military Institute, Smith Hall, Board Room,
Lexington, Virginia. ☒

A regular winter meeting of the VMI Board of Visitors to receive committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206

VIRGINIA RESOURCES AUTHORITY

† **December 12, 1989 - 10 a.m. - Open Meeting**
Mutual Building, 909 East Main Street, Suite 707,
Conference Room A, Richmond, Virginia

The board will meet to approve minutes of the meeting of November 14, 1989, 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 office of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., 909 E. Main St., Suite 707, Mutual Bldg., Richmond, VA 23219, telephone (804) 644-3100, FAX number (804) 644-3109

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

† **January 20, 1990 - 11 a.m. - Open Meeting**
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155

DEPARTMENT OF WASTE MANAGEMENT

† **December 6, 1989 - 1:30 p.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 11th Floor Conference Room, Richmond, Virginia. ☒

Calendar of Events

An informational meeting will be held for Amendment 8 to the Regulations Governing the Transportation of Hazardous Materials. The proposed amendment will incorporate by reference, changes that were made by U.S. DOT to Title 49 Code of Federal Regulations from July 1, 1988, to June 30, 1989. In addition, the amendment includes a new section, Part 180, promulgated by U.S. DOT. Part 180 contains requirements pertaining to the maintenance, reconditioning, repair, inspection, and testing of packaging, as well as other functions relating to these activities. U.S. DOT believes that these changes will increase safety in the transportation of hazardous materials in cargo tanks by preventing leaking and the risk of fire in accidents through improvement of valving and closures.

Contact: Cheryl Cashman, Legislative Analyst, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075

* * * * *

† **January 8, 1990 - 7 p.m. - Public Hearing**
City Council Chambers, 900 East Broad Street, Richmond, Virginia

† **January 9, 1990 - 7 p.m. - Public Hearing**
City Council Chambers, 215 Church Street, S.W., Roanoke, Virginia

† **January 9, 1990 - 7 p.m. - Public Hearing**
Hampton Public Library, 4207 Victoria Boulevard, Room A, Hampton, Virginia

† **January 11, 1990 - 7 p.m. - Public Hearing**
Manassas City Hall, 9027 Center Street, Manassas, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **VR 672-50-01. Regulations for the Development of Solid Waste Management Plans.** The regulations require each city, county and town, acting individually or as a designated region, to prepare plans for solid waste management within their jurisdictions. They describe plan contents and recycling goals.

STATEMENT

Substance and issues: Notice is hereby given that the Virginia Waste Management Board intends to adopt rules and regulations, titled Regulations for the Development of Solid Waste Management Plans, and offers the proposal with an effective date of March 1, 1990, for public review and comment. Written comments during the comment period and presentations during four public hearings will be considered before final adoption of the regulations. The proposed regulations are entirely new and require that

each city, county and town develop a plan for the management of nonhazardous solid waste within its jurisdiction. The regulations also establish procedures for the approval of regional boundaries wherein a group of cities, counties and towns may act in unison to develop one plan that serves their combined jurisdictions. If a local governing body fails to develop a plan and have it approved by the Department of Waste Management, no permits for development of solid waste management facilities may be granted to that body. Guidance on the content and development procedures are included, and dates are set out for submittal and approval of the plan. The section setting objectives and performance required of the plan mandates that each plan describe how solid waste recycling rates of 10, 15 and 25% shall be reached by 1991, 1993 and 1995, respectively.

Impact: All cities, counties and towns will be affected by the regulation. Planning districts, public service authorities and other such entities that plan or operate solid waste management facilities may be affected by the regulations. Persons engaged in waste management services may also be affected. The waste generators, including households, will be affected by changes in their service resulting from implementation of the plan.

Purpose and basis: The purpose of these regulations is to establish standards and procedures pertaining to development of solid waste management plans in this Commonwealth; in order to protect the public health and public safety, and to enhance the environment and natural resources. Specifically, the regulations are developed to require that solid waste management is conducted in accordance with an effective plan, that incorporates specific goals for the rate of recycling.

Statutory Authority: Chapter 14 (§ 10.1-1400 et seq. and specifically § 10.1-1411) of Title 10.1 of the Code of Virginia.

Written comments may be submitted until February 9, 1990.

Contact: Robert G. Wickline, Department of Waste Management, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

December 4, 1989 - 7 p.m. - Public Hearing
Smithfield Elementary School Auditorium, Intersection of Routes 258 and 10, 800 Main Street, Smithfield, Virginia. ☐

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance or denial of the modification of a Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0059005 for Smithfield Foods, Inc., P.O. Box 447, Smithfield, VA 23430. The purpose of the hearing is to receive comments on the proposed permit, the

issuance or denial of the modification of the permit, and the effect of the discharge on water quality or beneficial uses of state water.

Contact: Lori A. Freeman, Hearings Reporter, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815

December 11, 1989 - 9 a.m. - Open Meeting
December 12, 1989 - 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

December 14, 1989 - 3:30 p.m. - Open Meeting
James City County Board of Supervisors Room, Building C, 101-C Mounts Bay Road, Williamsburg, Virginia

December 18, 1989 - 3:30 p.m. - Open Meeting
Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

January 4, 1990 - 3 p.m. - Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Public meeting to receive comments and suggestions which the agency will use in proposing specific changes in the Water Quality Standards that will be formally considered during the 1990 Triennial Review.

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

* * * * *

December 14, 1989 - 7 p.m. - Public Hearing
James City County Board of Supervisors Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia

December 18, 1989 - 7 p.m. - Public Hearing
Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

January 4, 1990 - 7 p.m. - Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, 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 adopt regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Requirements.** The proposed regulation requires that owners, operators, and vendors

demonstrate sufficient financial responsibility to ensure that corrective action and third party liability responsibilities associated with petroleum UST releases are met.

Statutory Authority: §§ 62.1-44.34:10, 62.1-44.34:12 and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Fred Cunningham, Office of Water Resources, Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0411

January 3, 1990 - 2 p.m. - Open Meeting
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia. ☐

Public meetings will be held to receive views and comments and answer questions from the public on the promulgation of regulations to (i) establish a Virginia Water Protection Permit for any activity requiring a Section 401 Certification under the Clean Water Act and (ii) establish the framework for declaration of surface water management areas which, if declared, would subject surface water withdrawals of 300,000 gallons or more per month for consumptive use to permitting and reporting requirements.

Contact: Joe Hassell or Chester Bigelow, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 367-6435 or 367-6406

LEGISLATIVE

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

December 14, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

A public hearing to allow the committee to hear the public's views on the AIDS problem. HJR 431

January 11, 1990 - 2 p.m. - Open Meeting
Site to be determined

A tentative date for a working session.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

Calendar of Events

JOINT SUBCOMMITTEE STUDYING AFFORDABLE BANKING SERVICES FOR LOW AND MODERATE CONSUMERS

December 13, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia ☐

An open meeting. SJR 226

Contact: Arlen Bolstad, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Tommy Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

VIRGINIA STATE CRIME COMMISSION

† **December 19, 1989 - 2 p.m. - Public Hearing**
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

The full Crime Commission will hold its annual public hearing for the general public to address their concerns and suggestions regarding Virginia's criminal justice system.

Drug Task Force

† **December 19, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

A meeting for the full Drug Task Force to report its 1989 findings and recommendations and to outline objectives for the final year of the study, 1990.

Treatment Subcommittee

† **December 19, 1989 - 8:30 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

A meeting for the Treatment Issues Subcommittee to review matters relating to juvenile transportation.

Contact: Robert E. Colvin, Executive Director, 910 Capitol St., Suite 915, Richmond, VA 23219, telephone (804) 225-4534

JOINT SUBCOMMITTEE STUDYING DNA TEST DATA EXCHANGE

† **December 14, 1989 - 2 p.m. - Open Meeting**
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☐

An open meeting. SJR 127

Contact: Mary Devine, Staff Attorney, 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) 786-3838

JOINT SUBCOMMITTEE STUDYING THE REGULATION OF ENGINEERS, ARCHITECTS, AND LAND SURVEYORS AND THE EXEMPTION FROM LICENSURE OF EMPLOYEES OF THE COMMONWEALTH AND ITS LOCALITIES

December 12, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia ☐

Regular meetings. HJR 408

Contact: Angela P. Bowser, Staff Attorney, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

VIRGINIA'S EXEMPTION STATUTES

December 15, 1989 - 9 a.m. - Open Meeting
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia ☐

The joint subcommittee will meet to study Virginia's Exemption Statutes. SJR 284

Contact: Mary K. Geisen, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

INDIGENT DEFENSE SYSTEMS

December 6, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

A regular meeting. SJR 279

Contact: Mary P. Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING MEANS OF RELIEVING LANDOWNERS FROM LIABILITY RESULTING FROM THE ILLEGAL DUMPING OF HAZARDOUS MATERIALS ON THEIR PROPERTY

† **December 5, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☐

A working session to finalize recommendations for the

1990 session of the General Assembly.

Contact: John Heard, Staff Attorney, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

LONG-TERM CARE INSURANCE MODEL REGULATION

December 4, 1989 - 2 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

A working session. HJR 332

Contact: Mary P. Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

CREATION, MEMBERSHIP AND STANDARDS OF CONDUCT OF A NONPARTISAN FAIR CAMPAIGN PRACTICES COMMISSION

December 4, 1989 - 2 p.m. - Open Meeting
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☐

A joint subcommittee meeting. HJR 416

Contact: Mary Spain, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING RECYCLING RESIDUE DISPOSAL AND RECYCLING TAX INCENTIVES

† **December 15, 1989 - 9:30 a.m. - Open Meeting**
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☐

A working session to develop recommendations for the 1990 session of the General Assembly.

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591

COMMISSION TO STUDY ALTERNATIVE METHODS OF FINANCING CERTAIN FACILITIES AT STATE-SUPPORTED COLLEGES AND UNIVERSITIES

December 14, 1989 - 2 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

The fourth meeting of the commission will be held in order to finalize its report.

Contact: Kathleen G. Harris, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SURROGATE MOTHERHOOD

December 4, 1989 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☐

An open meeting. SJR 178

Contact: Norma Szakal, Staff Attorney, 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) 786-3838

STATE WATER COMMISSION

† **December 19, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia. ☐

A business meeting to (i) receive a briefing on the State Water Control Board regulation for the water bills passed during the 1989 Session and (ii) review a proposal for a drinking water protection charge.

Contact: Martin Farber, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

December 4

Education, State Board of
† Funeral Directors and Embalmers, Board of
Long-Term Care Insurance Model Regulation
Nonpartisan Fair Campaign Practices Commission,
Creation, Membership and Standards of Conduct of a
Surrogate Motherhood, Joint Subcommittee Studying

December 5

Education, State Board of
Hopewell Industrial Safety Council
† Landowners From Liability Resulting From the
Illegal Dumping of Hazardous Materials on their
Property, Joint Subcommittee Studying Means of
Relieving
† Marine Resources Commission
Mental Health, Mental Retardation and Substance
Abuse Services, Department of

Calendar of Events

- Mental Retardation Advisory Council

December 6

Air Pollution Control, Department of
† Child Day Care and Early Childhood Programs,
Virginia Council on
Child Mental Health, Consortium on
Dentistry, Board of
Higher Education, State Council of
Indigent Defense Systems
Labor and Industry, Department of
- Virginia Apprenticeship Council and Virginia Safety
and Health Codes Board
Marine Products Board, Virginia
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Interagency Coordinating Council, Virginia
Mount Rogers Alcohol Safety Action Program
- Board of Directors
Nursing Home Administrators, Board of
† Polygraph Examiners Advisory Board
Soil and Water Conservation Board, Virginia
Veterinary Medicine, Board of
† Waste Management, Department of

December 7

† Agriculture and Consumer Services, Board of
Criminal Justice Services Board
- Committee on Criminal Justice Information Systems
Dentistry, Board of
Emergency Planning Committee of Chesterfield County,
Local
Labor and Industry, Department of
- Virginia Apprenticeship Council
Nursing Home Administrators, Board of
† Psychology, Board of
Real Estate Board
† Tidewater VASAP Policy Board

December 8

† Agriculture and Consumer Services, Board of
Children, Coordinating Committee for
Interdepartmental Licensure and Certification of
Residential Facilities for
Dentistry, Board of
† Family and Children's Trust Fund
- Board of Trustees
Fire Services Board, Virginia
Medicine, Board of
- Ad Hoc Committee on Optometry
Optometry, Board of
Real Estate Board
Transportation Safety Board

December 9

Dentistry, Board of
Game and Inland Fisheries, Department of
Medicine, Board of
- Credentials Committee

December 10

Game and Inland Fisheries, Department of

December 11

† Cosmetology, Board for
† Health Professions, Department of
- Task Force on Practice of Nurse Practitioners
Housing and Community Development, Department of
† Information Management, Council on
† Nursing, Board of
Taxation, Department of
Water Control Board, State

December 12

Audiology and Speech Pathology, Board of
† Contractors, Board for
Engineers, Architects, and Land Surveyors and the
Exemption from Licensure of Employees of the
Commonwealth and Its Localities, Joint Subcommittee
Studying the Regulation of
† Historic Resources, Department of
- Board of Historic Resources and State Review
Board
† Montgomery/Town of Blacksburg Local Emergency
Planning Committee, County of
† Nursing, Board of
- Special Conference Committee
† Soybean Board, Virginia
† Virginia Resources Authority
Water Control Board, State

December 13

† Arlington County/City of Falls Church Local
Emergency Planning Committee
Audiology and Speech Pathology, Board of
Banking Services for Low and Moderate Consumers,
Joint Subcommittee Studying Affordable
Branch Pilots, Board for
Chesapeake Bay Local Assistance Board
Corrections, Board of
Health, Board of
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
† Milk Commission
Motor Vehicles, Department of
- Medical Advisory Board

December 14

† Auctioneers Board
Child Day-Care Council
† DNA Test Data Exchange, Joint Subcommittee
Studying
† Fairfax County, the City of Fairfax, and the Towns
of Herndon and Vienna, Local Emergency Planning
Committee for
† Fire Services Board, Virginia
- Fire Prevention Committee
- Legislative Committee
- Training/EMS Education Committee
Health, Board of
† Historic Resources, Department of
- Board of Trustees of the Preservation Foundation

Calendar of Events

Nursing, Board of
† Small Business Financing Authority, Virginia
State-Supported Colleges and Universities, Commission
to Study Alternative Methods of Financing Certain
Facilities at
Water Control Board, State

December 15

† Building Code Technical Review Board, State
Exemption Statutes, Virginia's
† Fire Services Board, Virginia
† Nursing, Board of
- Special Conference Committee
† Professional Counselors, Board of
Real Estate Board
† Recycling Residue Disposal and Recycling Tax
Incentives, Joint Subcommittee Studying

December 18

† Barbers, Board for
† Rappahannock-Rapidan Division of Court Services
Executive Board
Water Control Board, State

December 19

† Aviation Board, Virginia
† Crime Commission, Virginia State
- Full Drug Task Force
- Treatment Subcommittee
Environment, Council on the
- Executive Council of the Chesapeake Bay Program
† Health Services Cost Review Council, Virginia
† Housing Development Authority, Virginia
† Longwood College
- Board of Visitors
† Mines, Minerals and Energy, Department of
† Nursing, Board of
† Water Commission, State

December 20

† Accountancy, Board for
† Lottery Board, State
† Racing Commission, Virginia
Social Services, State Board of
Treasury Board

December 21

Contractors, Board for
Social Services, State Board of
Transportation Board, Commonwealth

January 3, 1990

Water Control Board, State

January 5

Water Control Board, State

January 8

† Local Government, Commission on

January 9

† Funeral Directors and Embalmers, Board of

January 10

† Funeral Directors and Embalmers, Board of

January 11

Acquired Immunodeficiency Syndrome (AIDS)
† Boating Advisory Board, Virginia
Education, State Board of

January 12

Education, State Board of
Medicine, Board of
- Advisory Board on Occupational Therapy

January 18

Children, Department for
- State-Level Runaway Youth Services Network
Library Board
† Medicine, Board of
- Chiropractic Examination Committee

January 19

† Medicine, Board of
- Legislative Committee
† Longwood College
- Board of Visitors

January 20

† Longwood College
- Board of Visitors
† Visually Handicapped, Department for the
- Advisory Committee on Services

January 24

Rehabilitative Services, Board of
- Finance Committee
- Legislation and Evaluation Committee
- Program Committee

January 25

Rehabilitative Services, Board of

January 26

† Medicine, Board of
- Advisory Board on Physical Therapy

January 27

Virginia Military Institute
- Board of Visitors

February 2

† Medicine, Board of
- Ad Hoc Committee on Optometry
- Executive Committee

Calendar of Events

PUBLIC HEARINGS

- December 4**
Education, Department of
Motor Vehicles, Department of
Water Control Board, State
- December 5**
Motor Vehicles, Department of
- December 6**
Air Pollution Control, Department of
Motor Vehicles, Department of
- December 7**
Health, Department of
Motor Vehicles, Department of
- December 8**
Health, Department of
Medicine, Board of
- December 11**
Taxation, Department of
- December 12**
Motor Vehicles, Department of
- December 13**
† Milk Commission
Motor Vehicles, Department of
- December 14**
Acquired Immunodeficiency Syndrome (AIDS)
Motor Vehicles, Department of
Water Control Board, State
- December 18**
Water Control Board, State
- December 19**
† Crime Commission, Virginia State
- December 20**
Racing Commission, Virginia
- January 3, 1990**
Employment Commission, Virginia
- January 4**
Water Control Board, State
- January 5**
Taxation, Department of
- January 8**
Health Planning Board, Virginia
- January 8**
† Waste Management, Department of
- January 9**
† Waste Management, Department of
- January 10**
Commerce, Department of
- January 11**
† Waste Management, Department of
- January 12**
† Game and Inland Fisheries, Board of