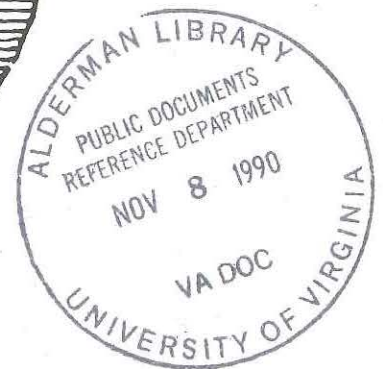
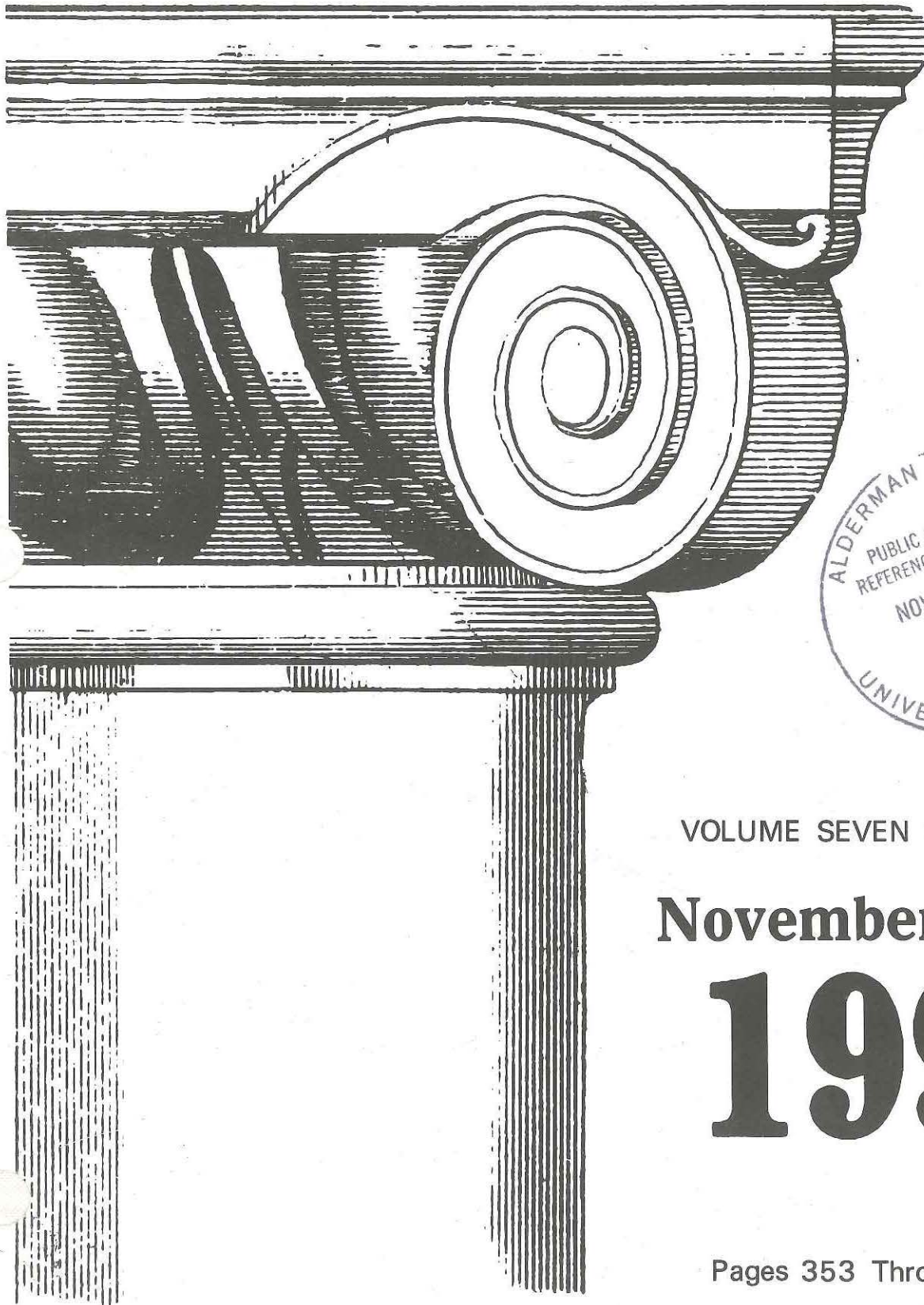


# THE VIRGINIA REGISTER

OF REGULATIONS

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November 5, 1990

# 1990

Pages 353 Through 446

## 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

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July 1990 through September 1991

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Sept. 19	Oct. 8
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Index 1 - Volume 7	

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Index 2 - Volume 7	

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May 1	May 20
May 15	June 3
May 29	June 17
Index 3 - Volume 7	

June 12	July 1
June 26	July 15
July 10	July 29
July 24	Aug. 12
Aug. 8	Aug. 26
Aug. 21	Sept. 9
Sept. 4	Sept. 23
Final Index - Volume 7	

# TABLE OF CONTENTS

<b>PROPOSED REGULATIONS</b>				
<b>DEPARTMENT OF SOCIAL SERVICES (BOARD OF)</b>				
Monthly Reporting in the Food Stamp Program. (VR 615-01-35) .....	355	Information. (VR 615-45-1) .....		393
<b>DEPARTMENT OF TAXATION</b>		Child Day Care Services Policy. (VR 615-53-01) .....		394
Virginia Individual Income Tax: Self-employment Tax Addback and Subtraction. (VR 630-2-322.01) .....	355	<b>STATE CORPORATION COMMISSION</b>		
<b>FINAL REGULATIONS</b>		Rules Governing Minimum Standards for Medicare Supplement Policies. (INS900288) .....		403
<b>DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD OF)</b>		<b>GOVERNOR</b>		
Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference. (VR 120-01) .....	361	<u>COMMENTS</u>		
<b>VIRGINIA STATE BAR</b>		<b>CRIMINAL JUSTICE SERVICES BOARD</b>		
Regulations for the Approval of Financial Institutions as a Depository for Attorney Trust Accounts in Virginia. (VR 167-01-101) .....	361	Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchase. (VR 240-02-02) .....		417
<b>DEPARTMENT OF CONSERVATION AND RECREATION</b>		<b>DEPARTMENT OF LABOR AND INDUSTRY</b>		
Stormwater Management Regulations. (215-02-00) .....	363	Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees. (VR 425-01-74) .....		417
<b>DEPARTMENT OF CORRECTIONS (STATE BOARD OF)</b>		<b>BOARD OF VETERINARY MEDICINE</b>		
Supervision Fee - Rules, Regulations and Procedures. (VR 230-30-007) .....	370	Regulations Governing the Practice of Veterinary Medicine. (VR 645-01-1) .....		417
<b>STATE WATER CONTROL BOARD</b>		<b>VIRGINIA RACING COMMISSION</b>		
Occoquan Policy. (VR 680-11-05) .....	382	Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Racing Officials. (VR 662-03-01) .....		417
Water Withdrawal Reporting. (VR 680-15-01) .....	388	<b>STATE WATER CONTROL BOARD</b>		
River Basin Section Tables - Water Quality Standards. (VR 680-21-08) .....	392	Water Withdrawal Reporting. (VR 680-15-01) .....		417
Potomac River Basin - Potomac River Subbasin. (VR 680-21-08.4) .....	392	<b>GENERAL NOTICES/ERRATA</b>		
<b>EMERGENCY REGULATIONS</b>		<u>NOTICES OF INTENDED REGULATORY ACTION</u>		
<b>DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)</b>		Notices of Intent .....		418
Child Protective Services Central Registry		<u>GENERAL NOTICES</u>		
		<b>DEPARTMENT OF LABOR AND INDUSTRY</b>		
		Notice to the public regarding proposed rulemaking; extension of time to submit comments and notices of intention to appear at hearing; rescheduling of informal hearing; clarification regarding submission of Advisory Committee on Construction Safety and Health. ....		424

# Table of Contents

---

Notice to the public regarding proposed rule;  
re-opening of the rulemaking record and  
reconvening of public hearing. .... 424

## NOTICE TO STATE AGENCIES

Forms for filing material on date for publication in  
the Virginia Register of Regulations. .... 425

## ERRATA

### DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Regulations Governing the Privacy and Security of  
Criminal History Record Information Checks for  
Firearm Purchase. (VR 240-02-02) ..... 425

## CALENDAR OF EVENTS

### EXECUTIVE

Open Meetings and Public Hearings ..... 426

### LEGISLATIVE

Open Meetings and Public Hearings ..... 442

### CHRONOLOGICAL LIST

Open Meetings ..... 444

Public Hearings ..... 446

# 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 SOCIAL SERVICES (BOARD OF)

(See Calendar of Events section  
for additional information)

Title of Regulation: VR 615-01-35. Monthly Reporting in the Food Stamp Program.

### Summary:

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

*This regulation explains the new requirements for the addition for taxable years 1990 and 1991 and subsequent subtraction for taxable years 1992 and 1993 of the federal self-employment tax deduction allowed under § 164(f) of the Internal Revenue Code, for purposes of determining Virginia taxable income.*

Public Hearing Date: N/A - Written comments may be submitted until January 3, 1990.

(See Calendar of Events section  
for additional information)

### Summary:

Households which are required by rules published under the Aid to Dependent Children (ADC) Program to file monthly reports of household circumstances must also file such reports each month for the Food Stamp Program. Additionally, any food stamp household which contains at least one household member with earnings must file a monthly report of household circumstances, unless all earnings in the household are from self-employment or contract income.

For taxable years 1990 and 1991, the amount of self-employment tax deducted from a self-employed individual's federal income tax return under I.R.C. § 164(f) is "added back" to federal adjusted gross income for purposes of determining Virginia taxable income. For taxable year 1992, the amount "added back" in taxable year 1990 will be subtracted in determining Virginia taxable income. If a taxpayer has insufficient income to benefit from the subtraction in taxable year 1992, the taxpayer may carryover the unused subtraction to taxable year 1993. If the taxpayer has insufficient income to benefit from the subtraction and any carryover in taxable year 1993, the taxpayer may apply for a refund. A refund is limited to the amount by which the sum of the difference between the tax actually paid in taxable years 1990 and 1991, and the tax computed without the addition exceeds the sum of the difference between the tax actually paid and the tax computed without the subtraction for taxable years 1992 and 1993.

VR 615-01-35. Monthly Reporting in the Food Stamp Program.

### § 1. Food stamp program - monthly reporting.

The following households which receive food stamps shall be subject to monthly reporting requirements:

This regulation is effective for taxable years beginning on or after January 1, 1990.

1. Households which contain a member required to file a report in the Aid to Dependent Children (ADC) Program, even if there are non-ADC recipients in the food stamp household.

2. All households with countable earnings, unless total earned income for the household is from self-employment or contract income, even if the household contains ADC recipients who are not required to monthly report for ADC.

VR 630-2-322.01. Virginia Individual Income Tax: Self-employment Tax Addback and Subtraction.

### § 1. Definitions.

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

## DEPARTMENT OF TAXATION

Title of Regulation: VR 630-2-322.01. Virginia Individual Income Tax: Self-employment Tax Addback and Subtraction.

"FAGI" means federal adjusted gross income as defined by the Internal Revenue Code.

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

"Individual" means any natural person, married or unmarried, and any fiduciary acting for a natural person, who is subject to taxation or required to file a return under Article 2 (§ 58.1-300 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia.

Public Hearing Date: November 8, 1990 - 10 a.m.

# Proposed Regulations

"S-E addition" means an amount equal to the self-employment tax deduction allowed under I.R.C. § 164(f) for taxable years 1990 and 1991.

"S-E subtraction" means, with respect to taxable year 1992, an amount equal to the S-E addition actually reported on a Virginia income tax return for taxable year 1990; and with respect to taxable year 1993, the sum of the S-E addition actually reported on a Virginia income tax return for the taxable year 1991 plus any portion of the S-E subtraction allowable for the preceding taxable year but not utilized.

"Taxable year" means a calendar year, or a fiscal year that begins on or after January 1 but before December 31 of the calendar year.

"VAGI" means Virginia adjusted gross income which is the federal adjusted gross income for the taxable year with modifications specified in § 58.1-322(B), § 58.1-322(C) and the additional deduction allowed under § 58.1-322(D)(2)(b) of the Code of Virginia.

"Virginia taxable income or VTI" means an individual's FAGI for the taxable year with the additions, subtractions, and deductions allowed under § 58.1-322 of the Code of Virginia.

## § 2. Purpose.

### A. Generally.

For taxable years beginning on and after January 1, 1990, I.R.C. § 164(f) allows self-employed individuals a deduction for income tax purposes for a portion of the self-employment taxes paid.

For Virginia income tax purposes, individuals will be required to addback the federal self-employment tax deduction in computing Virginia income tax for taxable years 1990 and 1991. However, these additions may be recovered in taxable years 1992 and 1993 as provided in the following sections.

### B. Exclusive method.

Effective for taxable years 1990 through 1994, the additions and subtractions allowable under §§ 3 and 4, and the refund allowable under § 5 of this regulation shall be the exclusive means of recovering the amount of S-E additions required by Virginia law.

## § 3. Computation of the S-E addition and subsequent subtraction.

### A. Computation of S-E addition.

1. To the extent excluded from FAGI, the amount of self-employment tax deduction allowed for taxable year 1990 shall be added back in determining VTI for taxable year 1990.

2. To the extent excluded from FAGI, the amount of self-employment tax deduction allowed for taxable year 1991 shall be added back in determining VTI for taxable year 1991.

### B. Computation of S-E subtraction.

1. To the extent included in VTI for taxable year 1990, any amount of S-E addition under § 3 A 1 above shall be subtracted from FAGI to determine VTI for taxable year 1992.

2. To the extent included in VTI for taxable year 1991, any amount of S-E addition under § 3 A 2 above shall be subtracted from FAGI to determine VTI for taxable year 1993.

## § 4. Carryover of unused S-E subtractions.

A. Any individual who has insufficient Virginia taxable income to offset the full amount of the taxable year 1992 S-E subtraction provided for under § 3 B 1 shall add the amount not offset to the amount allowable under § 3 B 2 for taxable year 1993. No amount may be subtracted under this subsection in any taxable year beginning on or after January 1, 1994. An individual who has not recovered the full amount of S-E additions on his Virginia income tax returns for taxable years 1992 and 1993, may qualify to file an application for a refund under § 5 of this regulation.

B. The portion of any taxable year 1992 subtraction available for carryover is the lesser of:

1. The amount by which Virginia taxable income is less than zero, or

2. The amount of the S-E subtraction allowable for taxable year 1992.

C. An individual may not elect to subtract less than the amount of the S-E subtraction allowable in taxable year 1992, or the amount of the S-E subtraction (including carryover) allowable in taxable year 1993 in order to take advantage of a credit, or for any other reason.

### D. Examples.

Taxpayer A is single with FAGI of \$18,800. For taxable year 1992, he has (i) no additions to FAGI; (ii) subtractions for foreign source income of \$4,000 and interest on U. S. obligations of \$11,000; and (iii) the S-E subtraction of \$1,000 (based on his 1990 S-E addition). Additionally, he will take the Virginia personal and standard deductions. His VTI for taxable year 1992 is computed and the resultant carryover of unused S-E subtraction would be computed in the following manner:

Federal Adjusted Gross Income	18,800
Additions:	0
	0



Subtractions:		
Foreign Source	4,000	
Interest U.S. Bonds	11,000	
S-E Subtraction	1,000	
Va. Standard Deduction	3,000	
Va. Personal Deduction	800	(19,800)
Virginia Taxable Income		(1,000)

Taxpayer A would be allowed to carry over \$1,000 to 1993. Since the amount by which Virginia taxable income is less than zero and the amount of the S-E subtraction are equal, the amount carried over to taxable year 1993 is \$1,000.

Assume the same facts as in A, except Taxpayer A has interest from U.S. Bonds of \$10,000 and a S-E subtraction of \$2,000. His Virginia taxable income and the resultant carryover would be computed in the following manner:

Federal Adjusted Gross Income		18,800
Additions:	0	0
Subtractions:		
Foreign Source	4,000	
Interest on U. S. Bonds	10,000	
S-E subtraction	2,000	
Va. Standard Deduction	3,000	
Va. Personal Deduction	800	(19,800)
Virginia Taxable Income		(1,000)

Taxpayer A would be allowed to carry over \$1,000 to taxable year 1993. Since the amount by which Virginia taxable income is less than zero is the less than the taxable year 1990 S-E subtraction, Taxpayer A is allowed the lesser amount, or \$1,000.

Assume the same facts as in A, except Taxpayer A has interest from U.S. Bonds of \$12,000 and S-E subtraction of \$2,000. His taxable year 1992 Virginia taxable income and the resultant carryover would be computed in the following manner:

Federal Adjusted Gross Income		18,800
Additions:	0	0
Subtractions:		
Foreign Source	4,000	
Interest on U.S. Bonds	12,000	
S-E Subtraction	2,000	
Va. Standard Deduction	3,000	
Va. Personal Deduction	800	(21,800)
Virginia Taxable Income		(3,000)

Taxpayer A would be allowed to carry over \$2,000 to taxable year 1993. Since the amount of the taxable year 1990 S-E subtraction is less than the amount by which Virginia taxable income is less than zero, Taxpayer A is allowed to carry over \$2,000.

## § 5. Application for refund.

### A. Generally.

1. After taxable year 1993, if any individual can

demonstrate that the S-E additions as computed in § 3 A have not been recovered by the S-E subtractions allowable for taxable years 1992 or 1993 under § 3 or § 4, such individual may apply for a refund of taxes paid on the unrecovered S-E additions.

2. When any person eligible under § 6 has filed a final federal return due to the death of an individual, an application for the refund of taxes paid on the unrecovered S-E additions may be filed by the person authorized to act on behalf of the deceased taxpayer, subject to the limitations of § 6.

3. No refund shall be allowed under this section unless the taxpayer has income from Virginia sources or is required to file a Virginia return for each taxable year in which a subtraction is allowable under § 3 B or § 4.

### B. Computation of the refund amount.

1. The refund shall be computed upon the amount of the outstanding balance of the S-E additions which has not been recovered through S-E subtractions allowable under § 3 B or § 4 for taxable years 1992 and 1993. The amount of refund shall be the outstanding balance of the S-E additions multiplied by 5.75% (0.0575).

2. In no case shall the amount of refund allowed under this section exceed the amount of tax that was actually paid in taxable years 1990 and 1991 on the outstanding balance of S-E additions and not otherwise recovered through S-E subtractions in taxable years 1992 and 1993. For the purpose of computing the limitation under this subdivision:

- a. The refund shall be limited to the amount by which:

- (1) The sum of the difference between the tax actually paid and the tax computed without S-E additions for taxable years 1990 and 1991 exceeds,

- (2) The sum of the difference between the tax actually paid and the tax computed without the S-E subtraction for taxable years 1992 and 1993.

- b. Example. James Smith was a resident of Virginia in 1990 and was required to addback his self-employment tax deduction he claimed on his taxable year 1990 federal income tax return in the amount of \$3,000 on his taxable year 1990 Virginia income tax return. Mr. Smith had interest on U.S. Bonds of \$17,000. For taxable year 1991, Mr. Smith was required to addback the self-employment tax deduction he claimed on his taxable year 1991 federal income tax return in the amount of \$3,000 on his taxable year 1991 Virginia income tax return. After filing his taxable year 1992 Virginia return, Mr. Smith still has an outstanding balance



## Proposed Regulations

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*of \$1,800 from his taxable year 1990 S-E addition which has not offset income and which must be carried over to his taxable year 1993 Virginia return. After filing his taxable year 1993 Virginia return, Mr. Smith has an outstanding balance of the combined taxable year 1992 S-E subtraction carryover and the taxable year 1993 S-E subtraction of \$3,600 and requests a refund in the amount of \$207 ( $\$3,600 \times 0.0575$ ). However, Mr. Smith's refund is \$88 (the tax of \$136 actually paid in taxable years 1990 and 1991 attributable to the S-E additions less the tax of \$48 attributable to the S-E subtractions in taxable years 1992 and 1993). The calculation of the limitation is shown below:*

# Proposed Regulations

	1990		1991		1992		1993	
	With	W/O	With	W/O	With	W/O	With	W/O
<u>Federal Gross</u>	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
<u>Income</u>								
Self-employment	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>
<u>Deduction</u>								
FAGI	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000
<u>VA. ADDITIONS:</u>								
(other)	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
S-E Addition	3,000	-0-	3,000	-0-	-0-	-0-	-0-	-0-
<u>VA. SUBTRACTIONS:</u>								
U.S. Bond interest	<17,000>	<17,000>	<17,000>	<17,000>	<17,000>	<17,000>	<17,000>	<17,000>
S-E subtraction	-0-	-0-	-0-	-0-	<3,000>	-0-	<3,000>	-0-
S-E subtraction	-0-	-0-	-0-	-0-	-0-	-0-	<1,800>	-0-
<u>Carryover from 1992</u>								
VAGI	8,000	5,000	8,000	5,000	2,000	5,000	200	5,000
Va. Standard	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>	<3,000>
<u>Deduction</u>								
Va. Personal	<800>	<800>	<800>	<800>	<800>	<800>	<800>	<800>
<u>Deduction</u>								
Virginia Taxable	4,200	1,200	4,200	1,200	<1,800>	1,200	<3,600>	1,200
<u>Income</u>								
TAX	92.00	24.00	92.00	24.00	-0-	24.00	-0-	24.00
<u>DIFFERENCE (i.e.,</u>	68.00		68.00		24.00		24.00	
<u>attributable to</u>								
<u>addback)</u>								

The limitation of the refund is \$88.00.  $[(\$ 68.00 + 68.00 = \$136.00) - (\$24.00 + 24.00 = \$48.00)] = \$ 88.00!$

# Proposed Regulations

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## *C. When to file the application for refund.*

1. *The application for refund may be filed after filing final federal and Virginia income tax returns as provided in § 6 or after filing the income tax return for taxable year 1993, the last taxable year specified under § 4 for claiming a S-E subtraction.*

2. *An application for refund must be filed within three years of the applicable date.*

*In the case of an application for refund of taxes paid on the unrecovered outstanding balance of 1990 and 1991 S-E subtractions, the applicable date is the due date of the last return on which the taxpayer is entitled to claim a subtraction under § 4 or § 6.*

## *D. Form of the application.*

*Any application for refund of taxes paid on the unrecovered outstanding balance of the S-E addition for taxable years 1992 and 1993 shall be filed by a letter to the Tax Commissioner requesting the refund. The letter shall provide sufficient documentation to demonstrate that the amount of refund requested does not exceed the amount of tax actually paid as specified in § 5 B 2.*

## *E. Interest.*

*No interest shall be paid on refunds made under this section.*

## *§ 6. Final return.*

### *A. Personal representatives.*

*Persons claiming under this section shall be limited to the following:*

1. *Personal representatives of the decedent as defined in § 64.1-116 et seq. of the Code of Virginia.*

2. *Spouses filing a joint or combined return with the deceased.*

### *B. S-E additions.*

*Taxable years 1990 and 1991. When any personal representative eligible to file under this section has filed a final federal return due to the death of an individual for taxable year 1990 or 1991, the person filing must include the S-E addition as provided in § 3 A.*

### *C. S-E Subtractions.*

1. *Taxable year 1992. When any personal representative has filed a final federal return due to the death of an individual for taxable year 1992, the personal representative may subtract the amount of the S-E addition for taxable year 1990. A refund under § 5 may be requested for the tax paid on the*

*unrecovered 1990 S-E addition not subtracted in taxable year 1992.*

2. *Taxable year 1993. When any personal representative has filed a final federal return due to the death of an individual for taxable year 1993, the personal representative may subtract the amount of the S-E additions for taxable year 1991. A refund under § 5 may be requested for the tax paid on any amount of the unrecovered 1991 S-E additions, or any 1990 S-E additions not utilized in taxable year 1992 and carried over to taxable year 1993, and not subtracted in taxable year 1993.*

3. *The fact that a taxpayer files a final Virginia return because an individual has moved from Virginia shall not entitle the taxpayer to the S-E subtraction allowed in § 3 or the refund allowed in § 5.*

# FINAL REGULATIONS

## DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

**Title of Regulation:** VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

**Statutory Authority:** § 10.1-1308 of the Code of Virginia.

**Effective Date:** January 1, 1991.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. It was adopted as it was proposed in 6:20 VA.R. 3191-3206 July 2, 1990.

## VIRGINIA STATE BAR

NOTICE: The Virginia State Bar (the "Bar") is exempt from the provisions of the Administrative Process Act as an agency of the Supreme Court. The regulations set forth below have been adopted by the Bar and are published here for informational purposes only.

**Title of Regulation:** VR 167-01-101. Regulations for the Approval of Financial Institutions as a Depository for Attorney Trust Accounts in Virginia.

**Statutory Authority:** Rule 6: § IV: DR 9-103 B of the Rules of Virginia Supreme Court.

**Effective Date:** March 1, 1991.

VR 167-01-101. Regulations for the Approval of Financial Institutions as a Depository for Attorney Trust Accounts in Virginia.

### Purpose

The Virginia Supreme Court has adopted, by Rule of Court, a requirement that all attorneys who practice law in Virginia maintain an account for the deposit of trust funds in a financial institution approved by the Virginia State Bar. (Rule 6: § IV:DR 9-103(B)) The court further directed the Bar to adopt rules and regulations governing the approval and termination of approved status for financial institutions. Pursuant to this authority, these regulations have been approved by the Virginia State Bar.

### § 1. Definitions

"*Financial institution*" includes regulated state or federally chartered banks, savings institutions and credit unions licensed and authorized to do business in the State of Virginia. The term "bank" used hereunder shall include any financial institution.

"*Properly payable*" refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under Uniform Commercial Code

Section 4-104, if sufficient funds are available.

"*Notice of Dishonor*" refers to the notice which, pursuant to Uniform Commercial Code Section 3-508(2), must be given by a bank before its midnight deadline and by any other person or institution before midnight of the third business day after dishonor or receipt of notice of dishonor. As generally used hereunder, the term notice of dishonor shall refer only to dishonor for the purpose of insufficient funds, or because the drawer of the bank has no account with the depository institution.

"*Attorney trust account*" or "*trust account*" means an account, including an escrow account, maintained in a financial institution for the deposit of funds received or held by an attorney or law firm on behalf of a client, an estate, or a ward.

"*Client*" includes any individual, firm, or entity for which an attorney performs any legal service, including acting as an escrow agent, fiduciary, or as legal representative of a fiduciary. The term does not include a public or private entity of which the attorney is a full-time employee.

"*Law firm*" includes a partnership of attorneys, a professional or nonprofit corporation of attorneys, and a combination thereof engaged in the practice of law. In the case of a law firm with offices in this State and other jurisdictions, these Rules apply only to the offices in this State, or to the trust accounts holding funds of clients who are located in this State.

"*Insufficient Funds*" refers to an overdraft in the commonly accepted sense of there being an insufficient balance as shown on the bank's accounting records; and does not include funds which at the moment may be on deposit, but not collected.

"*Dishonored*" shall refer to instruments which have been dishonored because of insufficient funds as defined above.

### § 2. Approval of financial institutions.

Any financial institution which files the Agreement attached hereto and made a part of these regulations shall be automatically approved as a depository for attorney trust accounts.

### § 3. Cancellation of agreements to report.

No Agreement filed by a financial institution under these rules shall be canceled except upon 30 days notice to the Virginia State Bar. Such notice shall be addressed by certified mail to the Bar Counsel, Virginia State Bar, 801 E. Main Street, Richmond, Virginia 23219.

These rules and regulations were approved by the Virginia State Bar on the 12th day of October, 1990, to become effective March 1, 1991.

# Final Regulations

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## TRUST ACCOUNT

### NOTIFICATION AGREEMENT

THIS AGREEMENT, made this ....., day of ....., by and between the Virginia State Bar ("VSB"), and ....., ("Financial Institution").

#### WITNESS:

The undersigned, an officer of the Financial Institution executing this Agreement, being duly authorized to bind said institution by this Agreement, hereby applies to be approved to receive attorney escrow, trust, or clients' fund accounts, as defined in Disciplinary Rule 9-103(B)(1) of the Virginia Code of Professional Responsibility (Rules of Court, Part 6 § IV:DR 9-103(B)(1)), from attorneys for the deposit of clients' funds, hereinafter referred to as "Trust Accounts." The Financial Institution agrees to comply with the requirements of DR 9-103, as more specifically set forth below:

1. Notification to Attorneys or Law Firm. To notify the attorney or law firm promptly of an overdraft in any Trust Account or the dishonor for insufficient funds of any instrument drawn on any Trust Account held by it.
2. Notification to Bar Counsel. To report the overdraft or dishonor to Bar Counsel of the VSB, as set forth in Paragraph 4 of this Agreement.
3. Audit of Trust Account. To provide reasonable access to all records of the Trust Account if an audit of such account is ordered pursuant to court order, or upon receipt of a subpoena therefor.
4. Form of Report. That all such reports shall be substantially in the following format:
  - (a) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor and shall include a copy of the dishonored instrument, if such copy is normally provided to the depositor. The report shall be made simultaneously with and within the time provided by law for notice of dishonor to the depositor.
  - (b) In the case of instruments that are presented against insufficient funds but which are honored, the report shall identify the financial institution, the attorney or law firm, account name, the account number, the date of presentation and the date paid, as well as the amount of the overdraft created thereby. Further, the report shall be mailed within five (5) banking days of the date of presentation for payment against insufficient funds.

5. Consent of Attorneys or Law Firms. The Financial Institution may require, as a condition to opening an attorney Trust Account, the written consent of the attorney or law firm opening such account to the notification to Bar Counsel of VSB as set forth in Paragraph 2 of this Agreement.

6. Termination of Agreement. This Agreement may terminate upon thirty (30) days notice from the Financial Institution in writing to Bar Counsel that the institution intends to terminate the Agreement on a stated date and that copies of the termination notice have been mailed to all attorneys and law firms that maintain Trust Accounts with the Financial Institution or any branch thereof. Notice to the Bar Counsel shall be sent by certified mail to the Virginia State Bar, Attn. Bar Counsel, 801 E. Main Street, Richmond, Virginia 23219.

7. Binding Effect. This Agreement shall be binding upon the Financial Institution and any branch thereof receiving Trust Accounts.

8. Inclusion of Rules and Regulations by Reference. The Rules and Regulations adopted by the Virginia State Bar governing the approval and termination of approved status for financial institutions are included herein by reference and made a part of this Agreement.

IN WITNESS WHEREOF, the Financial Institution has executed this Agreement on the date and year first above written.

ATTEST:

.....  
Officer's Name  
Corporate Office held

## DEPARTMENT OF CONSERVATION AND RECREATION

**Title of Regulation:** VR 215-02-00. Stormwater Management Regulations.

**Statutory Authority:** §§ 10.1-104 and 10.1-603.4 of the Code of Virginia.

**Effective Date:** December 5, 1990.

### Summary:

The regulations specify minimum technical criteria and administrative procedures for stormwater management programs which local governments are authorized to adopt to achieve the effective control of precipitation runoff from land development projects. These regulations also establish minimum technical criteria and administrative procedures that apply to land development projects that are conducted by state agencies.

Changes made to the regulation as published in the Virginia Register on July 30, 1990, clarify the intended meanings and are not considered substantive.

VR 215-02-00. Stormwater Management Regulations.

### PART I. GENERAL.

#### § 1.1. Definitions.

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

"Act" means Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel banks nor causing erosive damage to the channel bed or banks.

"Applicant" means any person submitting a stormwater management plan for approval.

"Channel" means a natural stream or manmade waterway.

"Department" means the Department of Conservation and Recreation.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

"Director" means the Director of the Department of

Conservation and Recreation.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

[ "Floodplain" means those areas adjoining a river, stream, channel, ocean, bay or lake which are likely to be covered by flooding. ]

"Infiltration facility" means a stormwater management facility which temporarily impounds runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility may also be equipped with an outlet structure to discharge impounded runoff, such discharge is normally reserved for overflow and other emergency conditions. Since an infiltration facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Inspection" means an on-site review of the project's compliance with the approved plan, the local stormwater management program, and any applicable design criteria.

"Land development" or "land development project" means a manmade change to the land surface that potentially changes its runoff characteristics.

"Local stormwater management program" or "local program" means a statement of the various methods employed by a locality to manage the runoff from land development projects and may include such items as local ordinances, policies and guidelines, technical materials, inspections, enforcement and evaluation.

"Locality" means a county, city, or town.

"Nonpoint source pollution" means pollution whose sources cannot be pinpointed but rather is washed from the land surface in a diffuse manner by stormwater runoff.

"Onsite stormwater management facilities" means facilities which are designed to control stormwater runoff emanating from a specific site.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body or any other legal entity.

"Post-development" refers to conditions that [ reasonably ] may be [ reasonably ] expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Pre-development" refers to the land use that exists at the time that plans for the land development are

# Final Regulations

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submitted to the locality. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing land use at the time the first item is submitted shall establish pre-development conditions.

"Regional (watershed wide) stormwater management facility" [ or "regional facility" ] means a facility or series of facilities designed to control stormwater runoff from a large contributing area, although only portions of the watershed may experience land development.

"Regional stormwater management plan" or "regional plan" means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"State project" means the construction of any facility or expansion of an existing facility including, but not limited to land clearing, soil movement, or land development, which is undertaken by any state agency, board, commission, authority or any branch of state government, including state supported institutions of higher learning, which disturbs more than one acre of land area.

"Stormwater detention basin" or "detention basin" means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater management facility" means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" or "plan" means a document containing material for describing how existing runoff characteristics will be maintained by a land development project and comply with the requirements of the local program or these regulations.

"Stormwater retention basin" or "retention basin" means a stormwater management facility which, similar to a detention basin, temporarily impounds runoff and discharges its outflow through a hydraulic outlet structure to a downstream conveyance system. Unlike a detention basin, however, a retention basin also includes a permanent impoundment and, therefore, is normally wet, even during nonrainfall periods. Storm runoff inflows are

temporarily stored above this permanent impoundment.

"Subdivision" unless otherwise defined in a local ordinance adopted pursuant to § 15.1-465 of the Code of Virginia, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

"Water quality volume" means the volume equal to the first 0.5 inch of runoff multiplied by the total area of the land development project.

"Watershed" means the total drainage area contributing runoff to a single point.

## § 1.2. Authority.

Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia authorizes the department to promulgate these regulations.

## § 1.3. Purposes.

The purposes of these regulations are to:

1. Inhibit the deterioration of existing waters and waterways of the Commonwealth by requiring that state agency and local stormwater management programs maintain post-development runoff characteristics, including both water quantity and quality, as nearly as practicable, equal to or better than the pre-development runoff characteristics;
2. Control nonpoint source pollution, localized flooding and stream channel erosion, by establishing minimum acceptable technical criteria that must be met by state agencies and all stormwater management programs implemented by localities;
3. Establish minimum acceptable administrative procedures that must be met by all local stormwater management programs implemented by localities;
4. Require the provision of long-term responsibility for, and maintenance of, stormwater management facilities and other techniques specified to manage the quality and quantity of runoff;
5. Provide for the integration of stormwater management programs with erosion and sediment control, site plan review, flood insurance, floodplain management and other land development related programs and laws and regulations requiring compliance prior to authorizing construction; and
6. Provide for the periodic review and evaluation of



local [ agency ] stormwater management programs and state agency compliance and for annual reporting to the General Assembly of the extent to which the state stormwater management program has reduced nonpoint source pollution and mitigated the detrimental effects of localized flooding.

## § 1.4. Applicability.

A. These regulations are applicable to:

1. Every locality that establishes a local stormwater management program; and
2. Every state agency that, after January 1, 1991, undertakes any land clearing, soil movement, or construction activity involving soil movement or land development.

B. The following activities are exempt from these regulations:

1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia.
2. Tilling, planting or harvesting of agricultural, horticultural, or forest crops.
3. Single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures.
4. Land development projects that disturb less than one acre of land area, except that the governing body of a locality that has adopted a local stormwater management program may exempt a smaller area of disturbed land or may qualify the conditions under which this exemption shall apply.

## PART II. TECHNICAL CRITERIA.

### § 2.1. Applicability.

Except as provided for in § 1.4 B of these regulations, all local stormwater management programs and state projects must comply with the general requirements and water quality requirements in this part.

### § 2.2. General requirements.

A. A stormwater management plan for a land development project shall be developed so that from the site, the post-development peak runoff rate from a two-year storm and a 10-year storm, considered individually, shall not exceed [ the their respective ] pre-development rates.

B. These design storms shall be defined as either a 24-hour storm using the rainfall distribution recommended by the U.S. Soil Conservation Service when using U.S. Soil Conservation [ Service ] methods or as the [ estimated maximum rainfall for the estimated time of concentration of runoff storm of critical duration that produces the greatest required storage volume ] at the site when using a design method such as the Rational Method.

C. For purposes of computing runoff, all lands in the site shall be assumed prior to development to be in good condition (if the lands are pastures, lawns, or parks), with good cover (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation.

D. Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits shall be presented.

E. Localities shall require impounding structures that are not covered by the Virginia Dam Safety Regulations to be checked for structural integrity and floodplain impacts for the 100-year storm event.

F. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices and are acceptable to the locality.

G. Outflows from a stormwater management facility shall be discharged to an adequate channel, or velocity dissipators shall be placed at the outfall of all detention and retention basins and along the length of any outfall channel as necessary to provide a nonerosive velocity of flow from the basin to a channel.

H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

I. New construction, including construction of stormwater management facilities, should be avoided in [ flood plains floodplains ] . When this is unavoidable, a special examination to determine adequacy of proposed stormwater management facilities during the [ 100-year 10-year ] flood shall be required. The purpose of this analysis is to ensure that the stormwater management facility will operate effectively.

J. In addition, such construction shall be in compliance with all applicable regulations under the National Flood Insurance Program.

# Final Regulations

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K. [ Where deemed necessary by the locality, the applicant shall submit an analysis of the impacts of stormwater flows downstream in the watershed. Over detention of the design storms may be required to To ] prevent flooding or stream erosion downstream [ of the development site, it may be necessary to increase the detention storage requirements and reduce peak outflow rates to levels that exceed the requirements of § 2.2 A of these regulations. This requirement can be imposed only if a watershed analysis has been made by the locality ] .

L. Land development projects must comply with the Virginia Erosion and Sediment Control Act and attendant regulations.

## § 2.3. Water quality requirements.

The water quality volume shall be treated by one of the following methods.

A. For a detention basin, the water quality volume shall be detained and released over 30 hours.

1. The detention time is a brim-drawdown time and, therefore, shall begin at the time of peak storage of the water quality volume in the detention basin.

2. If the above requirement would result in an outlet [ pipe opening ] smaller than three inches in diameter or the equivalent cross sectional area, the period of detention shall be waived so that three inches will be the minimum [ pipe size outlet opening ] used.

B. For a retention basin, the volume of the permanent pool must be at least three times greater than the water quality volume.

C. For an infiltration facility, the water quality volume must be completely infiltrated within 48 hours.

1. The invert of the infiltration facility must be at least four feet above the seasonal high groundwater elevation.

2. A detailed soils analysis and report shall be required.

3. Approvals will be on a case-by-case basis after technical review by the designated authority. The object of this review will be to avoid groundwater contamination.

D. Design calculations verifying compliance with the water quality requirements shall be submitted.

## § 2.4. Nonstructural measures.

It is not necessary that basic requirements for water quality and quantity control be satisfied by means of structural methods. Nonstructural practices including, but not limited to, cluster land use development, minimization

of impervious surface and curbing requirements, open space acquisition, [ flood plain floodplain ] management, and protection of wetlands, steep slopes and vegetation should be coordinated with structural requirements. Such changes in land use often decrease the runoff coefficients, thus reducing the scope and cost of structural practices.

## PART III.

### LOCAL STORMWATER MANAGEMENT PROGRAMS.

#### § 3.1. Applicability.

A. This Part specifies administrative procedures for all localities operating local stormwater management programs.

B. Except for regulations related to plan approval, which are set forth in §§ 3.5 and 3.6 of these regulations, a locality may adopt regulations that are more stringent than those necessary to ensure compliance with these regulations, provided that the more stringent regulations are based upon the findings of local comprehensive watershed management studies and that prior to adopting more stringent regulations a public hearing is held after giving due notice.

C. The department and a locality operating a stormwater management program are authorized to cooperate and enter into agreements with any federal or state agency in connection with stormwater management plans.

1. A locality that has adopted more stringent requirements or regional stormwater management plans may request, in writing, that the department consider these requirements in its review of state agency projects within that locality.

2. To the maximum extent practicable, the state agencies shall comply with these local program requirements.

3. Nothing in this Part shall be construed as authorizing a locality to regulate, or to require prior approval by the locality for, a state project.

D. Localities with existing stormwater management programs shall have one year from the effective date of these regulations to modify their programs to comply with the minimum requirements of these regulations.

#### § 3.2. Requirements for local program and ordinance.

A. At a minimum, the local stormwater management program and implementing ordinance shall require compliance with the stormwater management technical criteria established in Part II of these regulations.

B. Each locality shall submit its stormwater management program, implementing ordinance, and amendments to the department for review. The department shall determine if the program and ordinance are consistent with the state

stormwater management regulations and notify the locality of its findings within 60 days.

C. Each stormwater management program shall consider the unique character and limitations of the environment in the planning area.

D. Stormwater management programs shall refer to and be in compliance with requirements for the control of soil erosion. The stormwater management program and ordinance shall also be consistent with relevant federal and state laws, rules and regulations concerning stormwater management, dam safety, [ flood plain floodplain ] management and flood control. Additionally, such programs should be coordinated with any stormwater management plans prepared by any other locality in the watershed.

E. The local stormwater management program and ordinance shall be included in the periodic reexamination of the locality's comprehensive land use plan.

F. [ No Except as provided for in § 1.4 B of these regulations, no ] grading, building, or other permit shall be issued for land development unless a stormwater management plan has been submitted to the locality and approved.

G. Nothing in this regulation shall be construed as limiting the rights of other federal and state agencies from imposing stricter standards or other requirements as allowed by law.

### § 3.3. Watershed planning encouraged.

A. In developing a local stormwater management program, a locality should consider regional planning for the appropriate watershed. The objective of regional stormwater management planning is the achievement of greater economy and efficiency through the use of regional stormwater management facilities that can serve several land development projects, as opposed to the use of a multitude of facilities that are intended solely for individual land development projects. In addition to mitigating the impacts of new development, regional stormwater management facilities may also provide an opportunity to remediate flooding or water quality problems caused by uncontrolled existing development. Because watershed boundaries typically transcend political boundaries, localities are encouraged to develop cooperative regional stormwater management plans.

B. Regional stormwater management planning should include the following, as a minimum:

1. Consideration of the locality's comprehensive plan, zoning, government facility plans and similar planning tools.
2. An analysis of the impacts of development on the watershed based on hydrologic and hydraulic

modeling. At a minimum, the 2-year, 10-year, and 100-year storms shall be studied. Ultimate development of the watershed shall be assumed.

3. Recommendations for locations, specified release rates, and required storage capacities of needed regional stormwater management facilities based on the modeling.

4. Consideration of future expansion of regional stormwater management facilities based on the possibility that development might exceed the anticipated level.

5. Requirements for necessary onsite stormwater management facilities and release rates.

6. An implementation schedule and financing requirements.

### § 3.4. Administrative procedures: Stormwater management plans.

A. A local stormwater management program and ordinance shall require a person who intends to initiate a land development project to submit a stormwater management plan and obtain the locality's approval of the plan prior to beginning the [ land development ] project.

B. The local stormwater management program and ordinance shall establish stormwater management plan submittal requirements. The stormwater management plan may include the appropriate maps, calculations, detail drawings, reports and a listing of the status of all major permit decisions to assure that the land development project achieves the objectives of the local program. Maps, plans, and designs shall be certified by a professional engineer or Class III B surveyor.

C. A locality may charge applicants a reasonable fee to defray the costs of program administration, including costs associated with plan review, issuance of permits, periodic inspection for compliance with approved plans and necessary enforcement, provided that charges for such costs are not made under any other law, ordinance or program. The fee shall not exceed an amount commensurate with the services rendered and expenses incurred or the amount established in § 10.1-603.10 of the Code of Virginia, whichever is less.

D. Prior to issuance of any permit, the locality may also require an applicant to submit a reasonable performance bond in accordance with § 10.1-603.8 A of the Code of the Virginia.

### § 3.5. Administrative procedures: Approval and disapproval of plans.

A. A maximum of 30 calendar days from the receipt of an application will be allowed for preliminary review of the application for completeness. During this period, the

# Final Regulations

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locality will either accept the application for review, which will begin the 60-day review period, or reject the application for incompleteness and inform the applicant in writing of the information necessary to complete the application.

B. The 60-day review period begins on the day the complete stormwater management plan is accepted for review. At this time, an acknowledgement letter is sent to the applicant. During the 60-day review period, the locality shall either approve or disapprove the plan [ and communicate its decision to the applicant in writing ] . Approval or denial shall be based on the plan's compliance with the locality's stormwater management program.

C. A disapproval of a plan shall contain the reasons for disapproval.

D. The applicant or any aggrieved party authorized by law may appeal a locality's decision of approval or disapproval of a stormwater management plan application within 30 days after the rendering of such a decision of the locality, to the circuit court of the jurisdiction in which the land development project is located.

E. Judicial review shall be on the record previously established and shall otherwise be in accordance with the provisions of the Administrative Process Act (§ 9-6.14.1 et seq.).

## § 3.6. Administrative procedures: Conditions of approval.

Each plan approved by a locality shall be subject to the following conditions:

1. The applicant shall comply with all applicable requirements of the approved plan, the local program, these regulations and the Act, and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.
2. The land development project shall be conducted only within the area specified in the approved plan.
3. The locality shall be allowed, after giving notice to the owner, occupier or operator of the land development project, to conduct periodic inspections of the project.
4. The person responsible for implementing the approved plan shall conduct monitoring and submit reports as the locality may require to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management.
5. No transfer, assignment or sale of the rights granted by virtue of an approved plan shall be made [ without the prior written approval of the locality unless a written notice of transfer is filed with the

locality and the transferee certifies agreement to comply with all obligations and conditions of the approved plan ] .

## § 3.7. Administrative procedures: Changes to an approved plan.

No changes may be made to an approved plan without review and written approval by the locality.

## § 3.8. Administrative procedures: Exceptions.

A. A request for an exception shall be submitted, in writing, to the locality. An exception from the stormwater management regulations may be granted, provided that: (i) exceptions to the criteria are the minimum necessary to afford relief, and (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the purpose and intent of the Act is preserved.

B. Economic hardship is not sufficient reason to grant an exception from the requirements of this regulation.

## § 3.9. Administrative procedures: Maintenance and inspections.

A. Maintenance of stormwater management facilities is an integral aspect of a stormwater management program. Responsibility for the operation and maintenance of stormwater management facilities, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall designate for each project the property owner, governmental agency, or other legally established entity to be permanently responsible for maintenance.

B. In the case of developments where lots are to be sold, permanent arrangements satisfactory to the approving agency shall be made to insure continued performance of these obligations.

C. A schedule of maintenance inspections shall be incorporated into the local ordinance. Ordinances shall also provide that in cases where maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the locality has the authority to perform the work and to [ ~~back-charge~~ recover the costs from ] the owner.

D. Localities may require right of entry agreements or easements from the applicant for purposes of inspection and maintenance.

E. At a minimum, stormwater management facilities shall be inspected on a semi-annual basis and after any storm which causes the capacity of the facility to be exceeded.

F. During construction of the stormwater management facilities, localities shall make inspections on a regular basis.

G. Inspection reports shall be maintained as part of the land development project file.

## § 3.10. Compliance.

If the locality determines that there is a failure to comply with the plan, notice shall be served upon the applicant or person responsible for implementing the plan by registered or certified mail to the address specified in the application or plan certification, or by delivery at the site of development activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the applicant or person responsible for implementing the plan shall be deemed to be in violation of the Act and upon conviction shall be subject to the penalties provided in § 10.1-603.14 of the Code of Virginia.

## § 3.11. Review of plans by the department.

The department will review any stormwater management plan with real or potential interjurisdictional impacts, upon the request of one of the involved localities, to determine whether the plan is consistent with the provisions of the Act and these regulations. Any such review shall be completed and a report submitted to each locality involved within 90 days of such request.

## PART IV. STATE AGENCY PROJECTS.

### § 4.1. Stormwater management plans or standards required.

A. After January 1, 1991, a state agency shall not undertake any land clearing, soil movement or construction activity involving soil movement or land development unless the state agency has:

1. Submitted to the department a stormwater management plan for the state project and has obtained approval of the plan from the department; or
2. Submitted annually to the department stormwater management standards and specifications and has obtained approval of those standards and specifications.

B. Stormwater management plans prepared for state projects shall comply with the technical criteria established in Part II of these regulations and, to the maximum extent practicable, any local stormwater management requirements in accordance with § 3.1 C of these regulations.

C. The following schedule for compliance with the state stormwater management regulations shall be applied to state projects.

1. As of January 1, 1991, state projects subject to the capital outlay process described in the Department of General Services, Division of Engineering and Buildings' Capital Outlay Manual that have received approval of preplanning studies or schematic drawings by the Art and Architectural Review Board, and those capital outlay projects not subject to the capital outlay manual that have completed 50% or more of final construction plans, shall make every effort to retrofit their projects with the appropriate measures. However, substantial redesign of the project or additional land acquisition will not be required. At a minimum, these projects must comply with the stormwater management criteria established in the state Erosion and Sediment Control Act and attendant regulations.

2. All other state projects must comply fully with these regulations as of January 1, 1991.

### § 4.2. Minimum requirements for stormwater management plans.

As a minimum, a stormwater management plan shall contain the following:

1. The location and the design of the proposed stormwater management facilities.
2. Overall site plan.
3. Comprehensive hydrologic and hydraulic computations for the pre-development and post-development two-year and 10-year storm events, considered individually.
4. Calculations verifying compliance with the water quality requirements.

[ ~~5. A description of the measures that are necessary to ensure compliance with the stormwater management provisions of the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5, Title 10, Code of Virginia, and related regulations. ]~~

[ ~~6. 5. ] A description of the requirements for maintenance of the stormwater management facilities and a recommended schedule of inspection and maintenance.~~

[ ~~7. 6. ] The identification of a person or persons who will be responsible for maintenance.~~

[ ~~8. 7. ] Certification of maps, plans and designs by a professional engineer or Class III B surveyor.~~

### § 4.3. Minimum requirements for submission of stormwater management standards and specifications.

# Final Regulations

A. A request for approval of stormwater management standards and specifications may be submitted to the department by a state agency on an annual basis. At a minimum, the following certifications shall accompany the request.

1. Individual stormwater management plans shall be prepared for all state agency projects.

2. The stormwater management plans shall comply with the technical requirements established in Part II of these regulations and, to the maximum extent practicable, any local stormwater management requirements in accordance with § 3.1 C of these regulations.

3. An inspection and maintenance schedule shall be developed and implemented.

B. Copies of stormwater management specifications and standards including, but not limited to, design manuals, technical guides and handbooks, shall be submitted.

## § 4.4. Actions on plans or specifications by the department.

A. Not later than 30 days after receipt of a complete stormwater management plan submitted by a state agency, the department shall approve or disapprove the plan.

1. The department shall transmit its decision in writing to the state agency which submitted the plan.

2. Disapproved plans must be resubmitted to the department.

B. The department's recommendations shall be binding on the state agency and on the private business or businesses, if any, hired by the state agency.

C. A state agency shall not change an approved stormwater management plan without approval from the department.

## § 4.5. Compliance.

A. The state agency responsible for the land development shall ensure compliance with the approved plan or specifications, even if actual plan implementation is performed by a private business or businesses, hired by the state agency.

B. The department shall perform random site inspections of state projects to assure compliance with these regulations, the Erosion and Sediment Control Act and related regulations.

C. The department may require monitoring and reports from the state agency responsible for implementing the plan, to ensure compliance with the approved plan and to determine if the measures required in the plan provide effective stormwater management.

## PART V. REPORTING.

### § 5.1 Reporting on stormwater management.

A. Localities with stormwater management programs and state agencies shall submit an annual report to the department. The report shall cover the period from July 1 to June 30 and shall be submitted to the department by September 1.

B. For localities, an annual report shall include, at a minimum, the number and type of stormwater facilities installed in the locality during the preceding year; their storage capacities; the affected water body, watershed or basin; a summary of any water quality monitoring data associated with the facilities; and the number and reasons for any exceptions approved by the locality.

C. For state agencies, an annual report shall include, at a minimum, the location (locality), number and type of stormwater facilities installed during the preceding year; their storage capacities; the affected water body, watershed or basin; and a summary of any water quality monitoring data associated with the facilities.

D. The department will compile this information and report to the General Assembly on the extent to which stormwater management programs have reduced nonpoint source pollution to the Commonwealth's waters.

## DEPARTMENT OF CORRECTIONS (STATE 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 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of Corrections will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 230-30-007. Supervision Fee - Rules, Regulations and Procedures.

**Effective Date:** December 5, 1990.

### Summary:

The amendments to this regulation consist only of corrections of technical and grammatical errors recommended by the Department of Planning and Budget.

VR 230-30-007. Supervision Fee - Rules, Regulations and Procedures.

## PART I. GENERAL PROVISIONS.

## § 1.1. Definitions.

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

*"Delinquency"* means a person is delinquent after missing one monthly supervision fee payment.

*"Employment"* means any service, including service in interstate commerce, performed by an individual for remuneration or under any contract for hire, written or oral, expressed or implied.

*"Income"* means any money received from all sources, exclusive of social security and welfare.

*"Legal dependents"* means those persons legally eligible to be listed as exemptions for federal income tax purposes.

*"Month"* means a calendar month or fraction thereof.

*"Monthly gross income"* means income received in a calendar month.

*"Supervision"* means that period of time from opening the case by executing the Community Release Agreement, the Conditions of Probation or Parole, or the Community Diversion Incentive (CDI) Program Diversion Agreement until the case is terminated, or timely payments have been made for 60 months.

*"Unable to work"* means having clinical documentation of a physical, mental, or emotional disability which precludes work or employment for the client.

*"Unreasonable hardship"* means monthly gross income is less than the federal poverty guidelines provided by the Department of Social Services.

*"Unreasonable hardship due to extenuating circumstances"* means monthly gross income is reduced below federal poverty guidelines because of payments on financial obligations caused by court ordered sanctions, natural disasters, unreimbursed medical expenses, or other unusual circumstances.

*"Verified income"* means written documentation establishing the client's income, such as check stubs, contracts, legal documents, etc.

## § 1.2. Supersession.

These standards supersede the emergency "Supervision Fee Rules and Regulations" adopted by the Board of Corrections on June 20, 1989.

## § 1.3. Eligibility.

All adults and juveniles sentenced as adults are subject

to the provisions of § 53.1-150 of the Code of Virginia (See Appendix 1) with these notations:

1. A person shall not be liable for payment for the last month of supervision.

2. A person shall not be subject to double monthly fees in the event of concurrent supervision requirements.

3. In the event of concurrent parole and probation or CDI participation, the district or program shall open the case in accordance with according to existing program procedures and the fee collection shall be assigned to the active status.

4. In the event of concurrent work release, parole, community diversion or probation, the Department of Corrections (DOC) Accounts Receivable Section shall be responsible for collecting the fees.

5. Persons sentenced in Virginia who transfer to another state and transfer back to Virginia are subject to the fee payment when accepted for supervision.

6. All persons subject to the provisions of § 53.1-150 of the Code of Virginia are obligated for fee payments unless and until they are exempted, are terminated from supervision, or comply with the 60-month provision.

## PART II. ADMINISTRATIVE PROCEDURES.

### § 2.1. Intake process.

A. All probationers, parolees, and state work releasees entering supervision on or after July 1, 1981, and CDI offenders who agree to diversion on or after July 1, 1988, shall have the provisions of § 53.1-150 of the Code of Virginia and the Supervision Fee Rules and Regulations explained to them by the supervising probation and parole officer, work release counselor, or CDI case manager, respectively.

B. Explanation of this obligation shall be given at the time of initial interview and be evidenced by execution of the Client Introduction Form (See Appendix 2). The original completed form shall be distributed to the client case file and the client shall receive a copy.

C. Refusal to sign the Client Introduction Form does not relieve the person of Virginia Code the requirements of § 53.1-150 requirements of the Code of Virginia. The supervising officer, work release counselor, or CDI case manager should note this occurrence on the form, sign it and distribute the copies as shown above.

D. A Supervision Fee Record (See Appendix 3) shall be set up on each probationer, parolee, or state work releasee entering supervision on or after July 1, 1981, and



# Final Regulations

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each person entering community diversion status on or after July 1, 1988. The record system may be manual or automated.

## § 2.2. Exemptions.

A. Section 53.1-150 of the Code of Virginia allows for the exemption of eligible persons from the fee payment obligation if approved by proper authority on the grounds of unreasonable hardship or unreasonable hardship based on extenuating circumstances.

### B. Exemption application.

1. A person may apply for an exemption at any time after entry into entering active supervision and completion of completing either the Client Introduction Form or the revised Community Release Agreement. Documentation of hardship shall be provided by the person seeking exemption (See Appendix 4).

2. If an exemption based on unreasonable hardship is denied, the client may apply for an exemption based on unreasonable hardship due to extenuating circumstances.

3. Persons who are denied an exemption for any reason may reapply whenever their circumstances have changed change .

### C. Exemption process.

1. Exemptions for unreasonable hardship or for unreasonable hardship based on extenuating circumstances.

a. The exemption process for parolees shall be according to procedures approved by the Virginia Parole Board.

b. The exemption process for probationers and CDI participants shall be according to procedures approved by the sentencing court.

c. The exemption process for state work releasees shall be according to procedures approved by the Department of Corrections.

2. The Division of Adult Community Corrections will annually review and issue the federal poverty guideline information needed for determining to determine unreasonable hardship.

### D. Exemption termination process.

1. Exemptions shall be terminated when the reasons for which the exemption was granted are no longer valid.

The supervising officer, CDI program director , or work release program staff member shall document

the invalidity and recommend exemption termination to the chief officer, CDI program director, or work release director.

2. The chief probation and parole officer, CDI program director , or appropriate work release program administrator may recommend termination of an exemption(s) to the exempting authority.

3. The supervising officer, CDI case manager , or work release program staff member ; is responsible for monitoring the exemption reasons at least quarterly.

4. There is no appellate procedure for termination by the exempting authority.

## PART III.

### PAYMENTS AND COLLECTION PROCEDURES.

#### § 3.1. Payments.

A. Payments specified in § 53.1-150 of the Code of Virginia or the sentencing general district court shall be made in full. This allows advance payments but not partial payments.

B. Payments for obligations in the preceding calendar month shall be due no later than the fifth day of the following month.

C. Payments shall be in the form of certified checks, cashier's checks, corporate checks , or money orders and made payable to the Department of Corrections.

D. The employer may deduct the fee payment from the person's pay and forward the payment to the district office , or CDI program office which whichever is supervising the client.

E. All payments shall be made in person to the supervising officer ; or the CDI case manager , or mailed to the district office or CDI program office , as appropriate .

F. Payment obligations shall commence with the calendar month in which the exemption terminated.

#### § 3.2. District/CDI program collection procedures.

A. The chief probation and parole officer or CDI program director are responsible for monitoring compliance with the fee collection rules and regulations in the probation and parole district or CDI program area.

B. The chief officer or CDI program director may establish written local office procedures to monitor compliance with the rules and regulations, subject to the approval of the regional probation and parole manager or community alternatives manager.

C. Probation and parole district and CDI offices shall issue sequentially numbered receipts or their equivalent, to offenders upon payment. Clients should be strongly urged to retain the receipts in the event of theft or loss. The receipt system may be manual or automated.

D. Probation and parole district and CDI offices shall process the daily ledger sheet (See Appendix 5) as follows:

1. All payments shall be listed, upon receipt, by probation and parole or CDI staff members.
2. The sheets shall be completed by the close of each business day. Daily ledger sheets shall be submitted when the accumulated funds exceed \$200 or weekly—whichever occurs first. They shall be prepared in triplicate. Two copies, along with the receipted and listed checks *+* or money orders, shall be mailed to the DOC Accounts Receivable Section. One copy shall be retained in the district or CDI office.
3. All entries on daily ledger sheets and checks or money orders reconciled according to § 3.4 and the copy of the reconciled daily ledger sheet returned to the district office or CDI office by the DOC Accounts Receivable Section. The reconciled amounts shall be posted to the supervision fee record within five days of receipt.

E. Probation and parole district and CDI offices shall post all supervision fee records each month for all activity within the preceding calendar month.

1. The entries shall show:

- a. Amount paid - \$30.
- b. Exemption - Ex-1; Ex-2.
- c. Unemployed - UN.
- d. Delinquency - DEL.
- e. Interstate - IS.
- f. Ineligible - IN.
- g. Closed - CL.

2. The entries shall show the date of the entry and the initials of the person making the entry.

F. All delinquent persons for a calendar month shall be identified and the delinquency procedures initiated in accordance with § 3.6.

G. Any shortage shall be reported immediately to the regional probation and parole manager or regional community alternatives manager and to the cash receipts supervisor of the DOC Accounts Receivable Section in writing. Every effort shall be made to recover lost or

stolen payments.

H. Every effort shall be made to determine the source of unidentified payments. The regional probation and parole manager or regional community alternatives manager, and the cash receipts supervisor of the DOC Accounts Receivable Section shall be notified in writing if such efforts are unsuccessful.

§ 3.3. State work release collection procedures.

A. The work release facility director, for persons in state facilities, or the community facilities managers, for persons subject to the fee in local programs, shall monitor compliance with the fee collection rules and regulations at the unit or facility.

B. Subject to the approval of the regional administrator for state facilities or community facilities manager, the work release program facility director shall establish written local office procedures to monitor compliance with the rules and regulations.

C. The work release facility directors, for persons in state facilities, or the community facilities managers, for persons subject to the fee in local programs, shall advise the DOC Accounts Receivable Section of any work releasee subject to fee collection.

D. Program facility directors or community facility managers shall advise the DOC Accounts Receivable Section in writing when persons are exempted from fee collection or are no longer subject to the provisions of § 53.1-150 of the Code of Virginia.

E. The accounts receivable manager shall deduct the supervision fee each month from the pay of each person subject to the fee. The deductions, *associated recordkeeping, and fund transfers* shall be made in a manner consistent with generally accepted accounting principles and in a manner *specified and approved* by the DOC Assistant Comptroller, Accounting Operations.

F. All supervision fee records shall be posted as required in § 3.2.

§ 3.4. General Accounting DOC (Accounts Receivable Section) procedures.

A. The cash receipts unit shall receive the checks *+* or money orders for supervision fee payments from employers, the work release units, district offices, and CDI program offices.

B. The Cash Receipts Unit of the Accounts Receivable Section shall reconcile the checks *+* or money orders and entries on the daily ledger sheet (See Appendix 5) and return one copy of the reconciled daily ledger sheet to the sending unit, district, or program within 10 days of its receipt.

# Final Regulations

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C. The Cash Receipts Unit shall prepare a monthly report (See Appendix 6) for the deputy director, Adult Community Corrections concerning fees collected. The accounts receivable manager shall transmit the report.

D. The DOC Assistant Comptroller Accounting Operations shall, according to generally accepted accounting principles, establish any fiscal procedures deemed necessary and not otherwise set forth to receive, account for, and disburse funds collected under the provisions of § 53.1-150 of the Code of Virginia.

## § 3.5. Refunds of payments.

A. Requests for refunds shall be made to the cash receipts supervisor of the DOC Accounts Receivable Section by the chief probation and parole officer, CDI program director, or work release facility director in writing.

B. Any refunds authorized by the cash receipts supervisor shall be in accordance with accepted accounting principles or applicable state requirements.

## § 3.6. Delinquency procedures.

A. The probation and parole officer or CDI case manager shall make every effort to encourage clients to meet their supervision fee obligations.

B. The chief probation and parole officer and CDI program director shall develop written local office procedures, subject to the approval of the regional probation and parole manager or community alternatives manager for identifying delinquent clients and for recovering outstanding fee payments.

C. All persons failing to make payment for the preceding calendar month will be mailed a Supervision Fee Delinquency Notice (See Appendix 7) by the supervising officer *or* case manager. Under § 53.1-150 of the Code of Virginia, more than two months delinquency may constitute sufficient grounds for revocation of parole, probation, work release, or community diversion status.

D. In the event of alleged violation by parolees, action shall be taken according to existing Parole Board violation procedures.

E. For probationers and CDI participants, the delinquency shall be noted in the case file. The sentencing court shall be notified of the delinquency, along with any recommendation, by the supervising officer *or* case manager.

F. Delinquency by state work releasees shall be identified and addressed by the work release facility director according to divisional guidelines.

## PART IV. TRANSFER AND CLOSURE PROCEDURES.

## § 4.1. Transfer procedures.

A. Transfers from work release or community diversion incentive to parole or probation.

1. Persons subject to the provisions of § 53.1-150 of the Code of Virginia being released from state work release status or CDI program participation to probation or parole supervision shall be terminated from the work release or CDI program according to existing program procedures.

2. The work release unit or CDI program director shall notify the accounts receivable manager of the program termination: *A and send a copy of the notice shall be sent to the central criminal file and local case file. The supervision fee record shall be marked "closed."*

3. The chief probation and parole officer shall enter such persons into supervision as a new case.

B. Transfers from parole to probation or vice versa.

Persons concluding either parole or probation supervision ~~but have~~ *with* a continuing probation or parole obligation shall have the supervision fee obligation continued without interruption.

C. Transfers to other districts.

Persons may transfer to another probation and parole district or from one CDI program to another according to existing program procedures.

1. The supervision fee record, the Client Introduction form and the Hardship Exemption Application, if applicable, shall be included in the final transfer material. The sending district or CDI program shall mark the record "closed" and retain a copy.

2. The case file shall reflect the transfer of these materials and the person's supervision fee status.

3. The receiving district or program shall continue the supervision fee collection process without interruption.

D. Transfer to or from other states.

1. Persons may transfer to or be received from other states according to existing interstate compact procedures. However, upon the effective date of transfer, they are not subject to the supervision fee payment.

2. Persons transferring to another state are obliged to pay the supervision fee until the effective transfer date, except that they shall not be charged for the last month of supervision. The sending district shall mark the record "closed" and retain it.

§ 4.2. Closure procedures.

A. Persons Client supervision fee payment obligations may be terminated for by death, discharge, interstate transfer, or revocation.

B. Cases should be closed in accordance with existing program procedures including a reference to the supervision fee status.

C. The DOC work release accountant shall be advised of any work release case closing, in writing, by the work release facility director with a copy forwarded to the central criminal file.

D. The supervision fee record shall be posted with a closed entry and retained in the district, unit, or CDI program file.

PART V. EXTERNAL REQUIREMENTS AND LIMITATIONS.

§ 5.1. External requirements.

All rules, regulations, and procedures are subject to any applicable auditing requirements and all records are governed by any applicable state library or statutory requirements.

§ 5.2. Limitations.

These regulations set forth the responsibilities of Department of Corrections and Community Diversion Incentive Program employees and do not establish rights or entitlements for any person subject to the provisions of § 53.1-150 of the Code of Virginia.

§ 53.1-150. Contributions by persons on parole, probation, and work release; delinquency as grounds for revocation of parole or probation; exemptions. — A. Any person (i) who is placed on parole, who is granted suspension of sentence and probation by a court of competent jurisdiction, who is participating in a community diversion program as provided in § 53.1-181, or who is participating in a work release program pursuant to the provisions of § 53.1-60, (ii) who is under the supervision of the Department, which shall include being under the supervision of a court services officer who is employed by the Department and serves a general district court, or of a community diversion program as provided in § 53.1-181, and (iii) who is gainfully employed, shall be required to contribute thirty dollars per month or, if such person is under the supervision of a court services officer of a general district court, then, in the discretion of the court, an amount not to exceed thirty dollars per month, toward the cost of his supervision beginning thirty days from the date he is employed.

Such sums shall be deducted by the parolee, probationer, or participant in a community diversion program from his monthly net earned income and shall be delivered to the Department pursuant to rules and regulations adopted by the Board of Corrections. By prior agreement between an employer and parolee, probationer, or participant in a community diversion program, an employer may deduct thirty dollars from the monthly earned income of the parolee or probationer and remit such amount to the Department pursuant to rules and regulations adopted by the Board of Corrections. In the case of prisoners employed pursuant to § 53.1-60, such sums shall be deducted by the Director from any wages earned by the prisoners. All such funds collected by the Department shall be deposited in the general fund of the state treasury.

In the event of more than two months' delinquency in making such contributions by a parolee or probationer, such delinquency may constitute sufficient grounds for revocation of his parole or probation. In the event that a probationer or parolee has made timely payments pursuant to this subsection for a total of sixty months without revocation of his probation or parole or extension of the length of his probation or parole, then he shall have no further obligation to contribute toward the cost of his supervision for the offense or offenses for which he was originally placed on probation or parole.

B. The Virginia Parole Board may exempt a parolee from the requirements of subsection A on the grounds of unreasonable hardship, and the sentencing court may exempt a probationer or participant in a community diversion program from the requirements of subsection A on the grounds of unreasonable hardship. The Director may exempt a work releasee from the requirements of subsection A on the grounds of unreasonable hardship. Any parolee or probationer transferred to or from other states under the supervision of the interstate compact for the supervision of parolees or probationers shall be exempt from the requirements of subsection A.

C. The provisions of subsection A shall not apply to any person against whom further proceedings have been deferred pursuant to § 18.2-251. (Code 1950, § 53-19.40; 1981, c. 634; 1982, cc. 492, 636; 1984, c. 688; 1988, c. 824; 1990, cc. 511, 816.)

The 1990 amendments. — The 1990 amendments by cc. 511 and 816 were identical, and in subsection A, substituted "thirty dollars" and substituted "thirty dollars" for "fifteen dollars" in the second sentence of the second paragraph. Two places in clause (iii) in the first paragraph, and substituted "thirty dollars" for "fifteen dollars" in the second sentence of the second paragraph.

DEPARTMENT OF CORRECTIONS  
SUPERVISION FEE

CLIENT INTRODUCTION FORM

NAME: John S. Doe VSP/SS# 000001  
(Print/Type)

Section 53.1-150, Code of Virginia, requires that all persons, unless exempted, who are placed on probation, parole and/or work release/Community Diversion Program pay a monthly supervision fee. The requirement begins thirty (30) days from the date he/she is initially employed. The amount is set by statute and is subject to change. The current amount is \$ .

The following is furnished for your information:

1. The fee is due by the fifth of the month following the thirtieth (30th) day of gainful employment and will continue each month thereafter. If you make timely payments for 60 months without revocation or extension of your probation/parole, you will have no further obligation to pay the fee. Further, you will not be obligated to pay the fee during the last month you are under supervision.
2. Payments may be made at the District Office, or CDI Office, either in person or by mail or in person to the supervising officer or Case Manager.
3. Payments will be made by certified check, cashier's check, or money order made payable to the "Department of Corrections".
4. When you obtain a certified check, cashier's check, or money order, you will be furnished a receipt. Please keep it. It will serve as your proof of payment and may be used in the event of theft or loss.
5. There are provisions for hardship exemptions which will be discussed with you by your supervising officer or CDI Case Manager. If you feel you qualify, you may apply for an exemption.
6. If you become behind by three (3) payments, your probation, parole or work/release or community diversion status may be revoked.

I have read (or had read to me) and understand the above.

July 1, 1990  
Date

John S. Doe  
Client

Nathan Fortescu  
Supervising Officer  
Distribution: Client, District/Unit File

40  
District

Appendix 2

SUPERVISION FEE RECORD

CLIENT NAME		#		P. O. N. Fortescu		DIST. #		
Jane S. Doe		000001		10		10		
Date of Supervision			Expiration Date			September 30, 1982		
Date	Code	By	Date	Code	By	Date	Code	By
1981			1982			19		
Jan			Jan (2-5)	\$15	NF	Jan		
Feb			Feb (3-5)	\$15	NF	Feb		
Mar			Mar (3-31)	\$15	NF	Mar		
Apr			Apr (4-19)	\$15	NF	Apr		
May			May (6-2)	\$15	NF	May		
Jun			Jun (6-30)	\$15	NF	Jun		
Jul (7-31)	IN	NF	Jul (8-5)	DEL/pd.	NF	Jul		
Aug (8-31)	\$15	NF	Aug (9-2)	\$30	NF	Aug		
Sep (9-30)	\$15	NF	Sep (9-30)	CL	NF	Sep		
Oct (10-22)	\$15	NF	Oct			Oct		
Nov (12-4)	\$15	NF	Nov			Nov		
Dec (12-28)	\$15	NF	Dec			Dec		

Probation/Parole Codes		Work Release		CDI Program	
A. Amount Paid - \$15.00		A. Employed - EM		A. Amount Paid - \$15.00	
B. Exemption - Ex-1a		B. Exemption - Ex-1a		B. Exemption - Ex-1a	
C. Unemployed - Un		C. Unemployed - Un		C. Unemployed - Un	
D. Delinquency - Del		D. Delinquency - Del		D. Delinquency - Del	
E. Interstate - IS		E. Ineligible - IN		E. Interstate - IS	
F. Ineligible - IN		F. Closed - CL		F. Ineligible - IN	
G. Closed - CL				G. Closed - CL	

In the date column, show the actual payment date next the month to which the payment/entry is to be credited.

Appendix 3

DEPARTMENT OF CORRECTIONS  
PRE-RELEASE ACTIVITIES  
COMMUNITY RELEASE AGREEMENT

NAME: Joe Doe NUMBER: 090002  
CORRECTIONAL CENTER: Woodbridge SSN: 000-01-0901  
( ) ORIGINAL ( ) REVISION # DATE: July 1, 1988

In accordance with provisions of Section 53.1-60, as amended, of the Code of Virginia the Department of Corrections does hereby extend the limits of confinement for the above named inmate for the purposes and subject to the provisions outlined below:

PROGRAM: Work Release ( XX ) Study Release ( ) Other ( )

EFFECTIVE DATE: July 1, 1988

ASSIGNED LOCATION: (Name) Woodbridge Cleaners  
(Address) 200 Washington Highway, Woodbridge, Virginia  
(Employer, School, Facility, or Other)

DURATION: Will Depart Correctional Center at 6:30 a.m.

(Time)

and return not later than 6:00 p.m.

(Time)

by unit van

(Mode of Transportation)

DAYS OF WEEK AUTHORIZED: Tuesday through Saturday

IMMEDIATE SUPERVISOR: Nigel Farnsworth 555-1212

(Name) (Telephone)

AUTHORIZING OFFICIAL: same as above

(Name) (Telephone)

(Employer or School Administrator)

RATE OF PAY: \$4.10 hourly, (weekly), (monthly)

HOURS PER WEEK: 40 DAYS PER WEEK: 5

DAILY WORK SCHEDULE: FROM: 7:30 a.m. TO: 4:30 p.m.

REGULAR PAY PERIODS: weekly

DATE FIRST PAYCHECK IS ANTICIPATED: July 5, 1988

CONDITIONS OF AGREEMENT:

- I hereby authorize the Department of Corrections to pursue all claims on my behalf pertaining to non-payment of Wages.
- I agree to proceed directly to and from and remain within the confines of my extended area of confinement as outlined above.

Revised 7/1/88

COMMUNITY RELEASE AGREEMENT  
Page 2

- I will refrain from the consumption or use of any alcoholic beverages, narcotics or other drugs not lawfully possessed by me.
- I will work and/or study diligently, conduct myself in a proper manner, obey all laws, program guidelines, regulations and instructions.
- I will contact the Center Supervisor in even any unusual circumstances arise.
- I will not terminate my employment or study without prior authorization from the Center Superintendent.
- I understand that I may study or work overtime or otherwise adjust my conditions of employment only if prior authorization is received from the Center Superintendent.
- I understand that I am required by law to provide financial support to any of my dependents who may be receiving welfare assistance and I hereby authorize such expenditures from my account.
- My dependents (are, are not) currently receiving Welfare assistance. circle one
- I agree to deposit my entire paycheck into my inmate account each pay period and report and deposit all other funds received from any source to the designated official for credit to my account.
- I understand that I will receive medical services from facilities authorized by the Department of Corrections and that I will be responsible for payment of any medical expenses which I may incur from other sources.
- I agree to maintain the minimum balances in my inmate account as authorized by current regulations and I authorize the designated deductions for Room, Board, and administrative charges to begin concurrent with my employment.
- I agree to voluntarily submit to occasional breath and urine tests as a surveillance technique to monitor adherence to condition Number 3 above.
- I understand that failure to adhere to any of the above conditions or falsification of any information contained herein may result in my immediate removal from the Program and termination of my Community Release Authorization.
- I understand that failure to remain within my place of employment, educational or related community activity program or failure to proceed to or from that designated area may be deemed as an escape from custody and subject to punishment as prescribed by law.

DEPARTMENT OF CORRECTIONS  
HARDSHIP EXEMPTION APPLICATION

TO: Exempting Authority Virginia Parole Board

Applicant: Doe John Socrates  
Last Name First Name Middle Name

Probationer SS# \_\_\_\_\_ Parolee VSP# 000001 Work Releasee VSP# \_\_\_\_\_  
CDI Offender

In accordance with Section 53.1-150 of the Code of Virginia, I am requesting an exemption from paying the supervision fee beginning August 1, 1988 for the following reason(s) \_\_\_\_\_ (Date)

XX 1. Insufficient income due to (a) inadequate earnings, (b) Court ordered financial obligations, (c) Verified uninsured medical expenses other than nonprescription drugs.

2. Verified Extenuating Circumstances. (Briefly explain)

I understand that if this application is approved, I will be exempt from paying the supervision fee only during that period of time in which the above-noted reason(s) for exemption exist(s).

July 12, 1988 John S. Doe  
Date Applicant's Signature (optional)

I. Approval XXX Disapproval \_\_\_\_\_

Reason: Doe has been laid off from his job. However, he is working part-time at another place but earns only \$25.00 weekly.

July 14, 1988 Nathan Fortescu  
Date Supervising Officer/VR  
Staff, CDI Case Manager

II. Approval XXX Disapproval \_\_\_\_\_

Reason: The man's earnings are less than \$130.00 net per month.

July 21, 1988 P. Rameworthy Legree  
Date Chief Officer/VR  
Administrator/CDI Program Director

III. Approval \_\_\_\_\_ Disapproval \_\_\_\_\_

Reason: \_\_\_\_\_

\_\_\_\_\_  
Date Exempting Authority

Attachments: Current Pay Stubs

Appendix 4

COMMUNITY RELEASE AGREEMENT  
Page 3

16. I understand that failure to adhere to Division Guideline 800 and punishment by the Adjustment Committee may result in my removal from the Program and termination of my Community Release Authorization.
17. I fully understand that I may be expected to complete any study course in which I participate, involving three credit hours or less, prior to being granted parole, and that participation in this release program in no way entitles me, as a matter of right, to be released upon parole at any specific date in the future.
18. In the event I am arrested outside the State of Virginia, I understand that I have the right to contest extradition, and I hereby knowingly waive extradition proceedings, and will return voluntarily to the State of Virginia.\*
19. I agree to participate in individual/group sessions and Pre-Release Programs designed to ease my transition back into the community and upgrade my skills for handling problems most commonly encountered by ex-offenders after their release from incarceration.
20. I have been granted permission to participate in a community activity program, under the jurisdiction of the Department of Corrections. In order that this may be accomplished, certain information from my records may be needed. I hereby consent to have information from my official records divulged (including reproduction) to prospective employers, school administrators, and/or appropriate law enforcement agencies.
21. I understand that I am subject to the payment of a monthly supervision fee of \$15.00 unless exempted by proper authority. Payments will commence thirty (30) days from the date of initial employment.

I have read or had read any explained to me the above conditions and do hereby agree to abide by these conditions:

July 1, 1988 Joe Doe  
Date INMATE SIGNATURE

I hereby certify that the above has been read and/or explained to the inmate and I do hereby witness said signature.

July 1, 1988 Landsberry Von Roosevelt  
Date UNIT SUPERINTENDENT OR HIS DESIGNEE



SUPERVISION FEE DAILY LEDGER FOR October 5, 1988

<u>Name</u>	<u>Money Order or Check No.</u>	<u>Amt. Paid</u>	<u>For Month(s) of</u>
Doe, John S.	AS-3118	\$15	September
McVirtt, L.B.	11-A11	\$15	September
Handlikova, M.A.	21B-302	\$30	August/September

Total Collected \$60 Received and Verified on \_\_\_\_\_  
 Total Money Orders or Checks 3 Date October 8, 1988  
 By: R. Ramsworthy Legree Nimrod Natt  
 Probation and Parole District 40 Cash Receipts Section  
 Community Diversion Program Accounts Receivable Section

Appendix 3

MEMORANDUM

TO: Deputy Director, Adult Community Services  
 FROM: Accounts Receivable Section  
 SUBJECT: Supervision Fee Monthly Collection Report  
 DATE: October 15, 1988

(1) Supervision Fees for	September, 1988
	(Month) (Year)
(2) Number of clients paid	200
(3) Total amount collected	\$3,090

Nimrod Natt  
 Signature  
 Accounts Receivable Manager  
 cc: General Accounting Manager

Appendix 6

NOTICE OF SUPERVISION FEE DELINQUENCY

John S. Doe, VSP #000001  
Client Name and Number

District office records indicate that you have failed to pay your Supervision Fee for January, 1988  
Date

As you are aware the fee is to be paid by the 5th of each month and failure to do so could result in revocation.

Please contact this office at the earliest possible time.

Nathan Fortescu  
Probation and Parole Officer/  
Work Release Officer/  
CDI Case Manager  
40  
District #

Appendix 7

APPENDIX 9

COMMUNITY DIVERSION PROGRAM  
P. O. Box 40  
Chesterfield, Virginia 23832  
(804) 796-3959

DIVERSION AGREEMENT

Under the provisions of Section 53.1-180 of the Code of Virginia, the Court has placed you in the Community Diversion Incentive Program this date for a period of by the Honorable Judge, presiding in the Court at

I, hereby agree to participate in the CDI Program subject to conditions as outlined below. I understand that participation in the CDI Program is a privilege and that failure to follow any part of my agreed upon program may result in my expulsion from the CDI Program and imposition of my suspended sentence.

CDI conditions are as follows:

- To obey all Municipal, County, State, and Federal laws and ordinances.
- To report any arrests or citations, including traffic tickets, within 3 days to the CDI office.
- To maintain regular employment, participate in an educational program full time, or a combination of education and employment, and notify the CDI office within 3 days of changes in employment or education.
- To permit the CDI staff to visit my home and/or place of employment.
- To follow the CDI staff's instructions and to be truthful and cooperative.
- Not to use alcoholic beverages in excess. The excessive use of alcohol here is understood to mean that the effects disrupt or interfere with my domestic life, employment, or orderly conduct.
- Not to illegally use, possess, or distribute narcotics, dangerous drugs, controlled substances, or drug paraphernalia.
- Not to use, own, possess, transport, or carry a firearm without the written permission of my Probation and Parole Officer.
- Not to change my residence, travel outside of a designated area, or leave the State of Virginia without permission of the CDI staff.

I will reside at Address Phone

APPENDIX 10

DIVERSION AGREEMENT, Page 2

CDI Conditions continued.

- 10. I will make restitution payments for my offense of \$ \_\_\_\_\_  
to \_\_\_\_\_ at the rate of \_\_\_\_\_  
per \_\_\_\_\_ until my debt is paid.
- 11. I will make Court costs payments of \$ \_\_\_\_\_ and attorney fees  
of \$ \_\_\_\_\_ at a rate of \_\_\_\_\_ per  
until my debt is paid.
- 12. A. I will pay the supervision fee as required by law.  
B.  
C.

Benefits of CDI. In return for adhering to the preceding conditions, you will receive:

- 1. Diversion from having to serve time in the penitentiary or jail for present offense(s).
- 2. Treatment/rehabilitation services.
- 3. Close supervision by CDI Program to monitor your completion of this diversion contract.

Your minimum date of release from the CDI Program is \_\_\_\_\_  
You will, however, remain under supervision until you receive a final release from the Court.

You are being placed in the CDI Program subject to the conditions listed above. The Court may revoke or extend your participation, and you are subject to arrest upon cause shown by the Court and/or by your Probation and Parole Officer.

You will report as follows:

APPENDIX 10

DIVERSION AGREEMENT, Page 3

I have read the above, and/or had the above read to me, and my signature below acknowledges receipt of the Diversion Agreement and agreement with the conditions set forth.

SIGNED: \_\_\_\_\_  
Participant CDI Coordinator/Case Supervisor

DATE: \_\_\_\_\_

# Final Regulations

## STATE WATER CONTROL BOARD

Title of Regulation: VR 680-11-05. Occoquan Policy.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Effective Date: December 5, 1990.

### Summary:

*The Occoquan Policy was adopted to protect the Occoquan Watershed, and particularly, the Occoquan Reservoir from domestic point source pollution. The Occoquan Policy was originally adopted and became effective in 1971. These amendments to the Occoquan Policy reflect the current understanding of technology, the water quality character of the watershed, and the overall water quality management programs of the State Water Control Board.*

*The amendments include reformatting as required by the Virginia Registrar of Regulations, removing the restriction of regional plant expansions, changing the minimum effluent quality requirements from weekly average to monthly average, and changing the nitrogen limit to Total Kjeldahl Nitrogen. Other amendments clarify the intent and purpose of the policy, which provides consistency in the board's current permitting duties, and separates the board from the Occoquan Watershed Subcommittee and billing practices for the Occoquan Watershed Monitoring Laboratory. Other amendments are to comply with state statutes.*

*In addition to the above, the final amendments include additional editorial changes and one clarifying amendment in § 2 G 2.*

VR 680-11-05. Occoquan Policy.

### SUBPART A. § 1. Introduction.

#### I. A. Purpose and authority.

To provide a policy for interim and long-term solutions to that protects the Occoquan Watershed's Watershed from point source pollution problems. The Occoquan Policy specifically regulates jurisdictional domestic sewage and sets forth requirements for high performance regional treatment plants. The policy was adopted pursuant to authority vested in the State Water Control Board (board) by Section § 62.1-44.15 of the State Water Control Law ; Code of Virginia 1960, as amended .

#### H. B. Water quality standard.

This "Occoquan Policy" also constitutes Special Standard "g" in the board's Water Quality Standards for sections 7, 7a, 7b, 7c, and 7d through 7h of the Potomac River Basin's Potomac River Subbasin (VR 680-21-08.4) , which sections are delineated geographically in the "Basin and

Section Description" portion of the Water Quality Standards Publication (VR 680-21-00) . In addition, the text of this policy is referred to under subparagraph 6.01g, Special Standards and Requirements (VR 680-21-07.1 g) , entitled "Occoquan Watershed Policy," of the Water Quality Standards (VR 680-21-00) .

#### III. C. Background.

During the 1960s there was a great deal of concern generated about the large amount of treated sewage effluent being discharged in the Occoquan Watershed, since the receiving streams feed the Occoquan Reservoir, a drinking water supply for over 600,000 people in Northern Virginia.

In response to this, the [ State Water Control Board board ] commissioned the firm of Metcalf & Eddy to study the problems of the Occoquan Reservoir and to recommend a course of action to preserve the Occoquan as a valuable water resource for future generations.

The results of the Metcalf & Eddy study stated that point source pollution was the primary cause of water quality degradation in the Occoquan Watershed and that a high degree of waste treatment would be necessary to prolong the life of the drinking water supply.

In 1971 the [ State Water Control Board board ] adopted a Policy for Waste Treatment and Water Quality Management in the Occoquan Watershed (the Occoquan Policy) which outlined a course of action to control point source pollution in the watershed.

The Occoquan Policy provided for the construction of regional high-performance treatment facilities in the watershed and a monitoring program to obtain water quality data both before and after construction of any of the high-performance plants.

The Occoquan Watershed Monitoring Program (OWMP or monitoring program) was established in 1972 which gathered an extensive amount of information and found that water quality problems in the Occoquan Watershed were related directly to point source pollution and to nonpoint source pollution.

In 1978, a regional high-performance treatment facility (the Upper Occoquan Sewage Authority-UOSA) was placed in operation. This facility eliminated eleven 11 major point sources of pollution in the watershed.

Shortly after USOA began operations, costs and charges for sewage treatment in systems tributary to USOA increased rather sharply. To date a significant part of those high costs have been associated with large amounts of infiltration and inflow being sent by the user jurisdictions to the regional facility for treatment.

In an attempt to control nonpoint source pollution the Commonwealth of Virginia adopted an erosion and

sediment control law in 1973. In accordance with this law all of the watershed jurisdictions have adopted erosion and sediment control ordinances. In addition, a number of best management practices (BMP) handbooks were written and published in 1979 by the board. In mid-1980 Fairfax County adopted a BMP ordinance.

In 1978, the [ ~~Water Control~~ ] board contracted the firm of Camp Dresser & McKee (CDM) to reevaluate certain aspects of the Occoquan Policy. Their report was presented to the board and to the local communities in 1980 and recommended that few changes be made to the policy.

As a result of the CDM report, input from the local communities and the board's staff, an updated version of the Occoquan Policy was drafted.

#### IV. D. References.

1. A Comprehensive Pollution Abatement Program for the Occoquan Watershed, Metcalf & Eddy Engineers, March 18, 1970.
2. Record of public hearing on March 31, 1971, concerning State Water Control Board's Occoquan Policy.
3. Occoquan Policy Reevaluation, Phase III Report, Camp Dresser & McKee, June 1980.
4. Record of public hearing on November 20, 1980, concerning amendments to the Occoquan Policy.

#### SUBPART B. LONG-RANGE POLICY § 2. Long-range policy.

##### I. A. Number and general location of regional treatment plants.

A. 1. The number of high-performance regional plants which shall be permitted in this watershed is not more than three, but preferably two, generally located as follows:

1. a. One plant in the Fauquier County/Warrenton area.

2. b. One plant in the Manassas area to serve the surrounding area in Prince William, Fairfax, and Loudoun Counties.

B. 2. All point source discharges of treated sewage effluent will preferably be located at least 20 stream miles above the Fairfax County Water Authority's raw water intake. In no case shall a plant be located less than 15 miles above the raw water intake.

C. 3. The provisions of Section I.A. and B. §§ 2 A 1 and 2 A 2 shall not limit the consideration of land disposal systems for waste treatment in the watershed,

provided such systems shall have no point source discharge to state waters and shall have the approval of the State Water Control Board.

##### H. B. Regional plant capacity allocations for the Occoquan Basin.

A. 1. The initial allotment of plant capacity for the Upper Occoquan Sewage Authority treatment facility shall be was approximately 10 MGD, based on all effluent being from high-performance plants meeting the requirements of Sections IV, V, and VI subsections D, E and F below and all those treatment facilities belonging to the City of Manassas, the City of Manassas Park, the Greater Manassas Sanitary District, and Sanitary District 12 of Fairfax County being abandoned.

B. 2. Incremental increases in the regional plant capacity may be approved by the [ ~~State Water Control Board (board) board~~ ] based on the results of a monitoring program which shows that current and projected discharges from the high-performance plants do not create a water quality or public health problem in the reservoir. Such incremental increases shall not exceed 7.5 MGD at any one time. The board advises that since severe infiltration/inflow stresses the performance reliability of the regional treatment plant(s), jurisdictions must pursue I/I correction within their individual systems.

##### III. C. Prerequisites for preliminary plant approval.

Prerequisites before the [ ~~State Water Control Board board~~ ] gives approval to preliminary plans for a regional high-performance plant are:

A. 1. A monitoring program for the receiving waters shall be in effect.

B. 2. The authority who is to operate the proposed plant shall enter into a written and signed agreement with the board that the authority shall meet the administrative requirements of Section VI. of this subpart subsection F of this section .

##### IV. D. Design concept for high-performance plants on the Occoquan.

###### A. 1. Plant design requirements are:

1. a. The design of the high-performance sewage treatment plants discharging to the Occoquan Watershed shall meet all the requirements specified herein as well as those specified in the most recent edition of the Commonwealth of Virginia Sewerage Regulations.

2. b. The basic sewage plant design concept for the regional plants discharging to the Occoquan Watershed shall be based on the Upper Occoquan

# Final Regulations

## Sewage Authority Wastewater Reclamation Facility.

B. 2. Changes in plant design requirements will be made according to these criteria:

1. a. Changes to the plant design described herein shall only be acceptable if the change does all of the following:

a. (1) Improves or equals the plant performance and final effluent quality.

b. (2) Increases or equals plant reliability and maintainability.

c. (3) Has a demonstrated performance in a plant of at least 5 to 10 MGD size for an operating period of not less than one, but preferably two years.

2. b. Before such changes are incorporated in the plant, specific written approval shall be obtained from the board.

3. c. Changes to the plant design solely to reduce cost and which jeopardize plant performance and reliability will not be approved.

### V. E. Plant performance requirements.

A. 1. The plant performance requirements for high performance plants discharging to the Occoquan Watershed are given in Table I.

B. The regional sewage authority must accumulate at least two seasons of operational data regarding the process reliability and effectiveness of the nitrogen removal facilities. In the case of the existing regional sewage authority (USOA), those two seasons of data may be accumulated in two stages. The first stage may be gathered during the shakedown period of the nitrogen removal facilities (at or near the 10.0 MGD flow) while the second stage may be gathered at or near the 15 MGD flow.

C. 2. Full-time operation of the nitrogen removal facilities is to be dependent upon the ability of the Occoquan Reservoir to maintain an ambient nitrate concentration of 5.0 mg/l as N or less in the vicinity of the Fairfax County Water Authority intake point. It is recommended that the Fairfax County Water Authority and the owner of the regional sewage authority enter into an agreement whereby both parties can be kept informed as to the need for operation of the nitrogen removal facilities. Operation of the nitrogen removal facilities is required when the ambient nitrate concentration (as N) is 5.0 mg/l or higher in the Occoquan Reservoir in the vicinity of the Fairfax County Water Authority intake point. The owner of the regional sewage authority is responsible for knowing ambient results of nitrate and when operation of nitrogen removal facilities is necessary.

TABLE I

### MINIMUM EFFLUENT QUALITY REQUIREMENTS\* FOR ANY REGIONAL SEWAGE TREATMENT PLANT IN THE OCCOQUAN WATERSHED

	COD mg/l	Suspended Solids mg/l	Nitro- gen mg/l	Phos- phorus mg/l	MBAS mg/l	Tur- bidity NTU	Coliform per 100 ML sample
Final Effluent Requirements	10.0	1.0	1.0**	0.1	0.1	0.5***	less than 2

\* As measured on a weekly ~~monthly~~ average unless otherwise noted. Since these are minimum requirements, the normal average would be expected to be substantially better.

\*\* Total nitrogen during operation of nitrogen removal by ion exchange; unoxidized Unoxidized nitrogen (as TKN) at all other times. Refer to Subpart B, Section V § 2 E2 for further information.

\*\*\* Measured immediately prior to chlorination.

### VI. F. Administrative and technical requirements for the control of the sewer system tributary to a regional, high-performance plant in the Occoquan Watershed.

A. 1. The owner to whom the permit is issued for operation of a regional plant shall meet the general and administrative requirements covered below. These requirements shall also be contractually passed on by the owner to any parties and/ or jurisdictions with which the owner may contract for the processing of wastewater.

These requirements are [ not ] applicable to the existing small, independent discharges in the watershed regional sewage treatment plants .

B. 2. The high-performance regional treatment plant shall be manned by an appropriate number of trained and qualified operating, maintenance and laboratory personnel and manned continuously 24 hours a day, 7 days a week throughout the year.

C. 3. The owner shall include, as part of his preliminary and final plans and specifications submitted to the board for approval, a detailed statement indicating how each of the technical and administrative requirements in this policy has been met. Any proposed deviation from any of these requirements shall be clearly identified and technically justified, and shall require formal [ State

Water Control Board board ] approval. These submittals shall also include:

1. a. Simplified fluid system diagrams which clearly identify the following:

- a. (1) The average and peak capacity of each unit.
- b. (2) The number of units of each type needed to handle the normal average flow and the peak of flow.
- c. (3) The number of spare units and their capacity for both average and peak flow cases shall also be identified.

In addition, a brief narrative summary description shall be submitted to identify what has been done to ensure that each unit and major subsystem can be maintained and expanded without release of effluent that does not meet the minimum standards.

2. b. A simple one-line power distribution system diagram showing how outside power is brought into the plant and how power is distributed within the plant proper shall be submitted. This diagram shall also show as a minimum:

- a. (1) Ratings and characteristics of electrical components such as transformers, circuit breakers, motor controllers, etc., making up the system.
- b. (2) Protective devices such as thermal overloads, under frequency, or under voltage relays.
- c. (3) Voltages supplied by all fuses.
- d. (4) Normal circuit breaker and switch conditions. (Notes shall also be provided as required to cover abnormal, casualty, and emergency operating modes.)
- e. (5) How electrical loads are combined into switch gear and load center. (The use of cubicle outlines in phantom or dotted line is suggested.)

3. 4. The final submittal of plans and specifications for the plant to the [ State Water Control Board board ] shall include a systematic failure mode and effects analysis on the mechanical and electrical portions of the plant so as to demonstrate that a single failure of a mechanical or electrical component will not interrupt the plant operations which are necessary to meet the effluent requirements of Table I of this policy.

4. 5. Pumping stations on the collection systems which are located in the Occoquan Watershed and are tributary to a regional treatment works shall:

- 1. a. Have stand-by pumping units.

2. b. Have at least one "on-site" backup power supply.

3. c. Have at least one "off-site" power supply.

4. d. Be designed so that no single failure of a mechanical or electrical component could degrade pumping capability.

5. e. Have pumps and valves arranged so that these units can be removed and replaced without the by-passing of sewage.

6. f. Have flow measure devices with provisions for recording flow.

7. g. Have retention basins of a minimum one-day capacity.

If these pumping stations are remote and unmanned, an alarm system shall be provided at manned stations to indicate that problems are developing and to direct maintenance assistance to the affected pumping station. The owner of each pumping station shall be required to obtain a State Water Control Board certificate.

A waiver may be sought from requirement 7. g above, particularly in new collection systems exhibiting no I/I problems. However, the jurisdiction requesting such a waiver must submit documentation to the [ Water Control ] board for review that the sewer system tributary to the pump station meets the criteria established by [ the most recent edition of ] the Virginia Sewerage Regulations for infiltration/inflow, and any other such information that the board may require.

5. 6. The major junctions in the collection system (e.g., at least at the 1 to 2 MGD collection points) shall have continuous recording flow measuring devices to help in the early identification of problem portions of a collection system in the event of unexplainable high flows (e.g., excessive infiltration). Also, such flow measuring devices and isolation valves shall be provided between jurisdictions as well as any others contracting for the services of the regional plant. The flow measuring devices and isolation valves between jurisdictions shall be under the control and responsibility of the owner to whom a plant certificate is issued.

6. 7. Each sewage treatment plant shall have a pretreatment program approved by the board.

7. 8. Waste being processed in any existing small plants shall have the first priority on treatment capacity and such capacity shall be specifically reserved for them in the new high-performance regional plants. New developments are to have second priority.



# Final Regulations

I. 9. If any of the various administrative procedures of the owner of the regional treatment plant or of jurisdictions served by the plant prove ineffective under actual operating conditions, the [ State Water Control Board board ] shall have the right to place new requirements on the owner and jurisdictions and to require any necessary action by these parties to physically correct the damage done to the reservoir due to ineffective implementation of the administrative requirements covered herein.

J. 10. The owner's interceptor and collection systems of the jurisdictions in the Occoquan Watershed shall be designed, installed, inspected, and tested by the respective owner to limit infiltration to 100 gal/inch-dia/mile/day as a maximum. The test results shall be certified and submitted to the board.

K. 11. Whenever the owner enters into an agreement with a jurisdiction for services of a regional plant, the owner shall be responsible for seeing that such jurisdictions have ordinances and rules to meet all the applicable requirements covered by this policy. These ordinances and rules shall meet the owner's approval and the owner shall monitor and spot-check to see that the jurisdictions are effectively implementing their ordinances and rules to meet the requirements covered herein. The board, at its discretion, can request the owner to submit to the board for its approval the ordinances and rules that will be used to meet the board's requirements covered herein.

Further, any time a user violates any of the administrative or technical requirements of the contract between the user and the owner which can affect the plant operations, hydraulic loading, or effluent quality or which affect the reservoir's water quality due to urban run off (e.g., siltation), the owner shall not allow the user to discharge additional wastewater to the owner's plant until the problem has been resolved to the owner's satisfaction.

L. 12. Up-to-date "as-built" drawings and manuals shall be available at least once a year for [ State Water Control Board board ] inspection and review. These documents shall include as a minimum:

1. a. Up-to-date as-built electrical and fluid system diagrams.
2. b. Detailed as-built and installed drawings.
3. c. Normal operating and casualty procedures manual. The documents shall be updated at least once a year to reflect all changes and modifications to the plant.

M. 13. The design engineer shall have the responsibility of meeting the proposed effluent quality as shown in Table I. To demonstrate that the plant as designed by the engineer can meet the effluent

standards, the plant is to be operated under the supervision of the design engineer for a minimum of one year of continuous operation after the "debugging" period.

## G. Other point source discharges.

1. Point sources other than regional plants will be permitted as regulated or required by the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (VR 680-14-01).

2. VPDES permits may be issued for single family homes with failing septic tanks, stormwater, pollution remediation projects, and minor industries. The permitting of major discharges (as defined in 40 CFR Part 122) other than regional sewage treatment plants is strictly prohibited [ with the exception of pollution remediation projects which are shown to be feasible and no other alternatives are available ] .

3. No permit as authorized in subdivisions 1 and 2 above shall be issued or reissued unless the applicant demonstrates that it is not feasible to connect to a regional plant and that there is not a feasible alternative except to discharge.

## SUBPART C. EXPANSION OF EXISTING PLANTS IN THE OCCOQUAN WATERSHED

### § 3. Expansion of existing plants in the Occoquan Watershed.

I. A. One of the objectives of the Occoquan Policy is to reduce water quality problems in the Occoquan Watershed due to pollution from point sources. To date the means of accomplishing this objective have been the construction and utilization of a high-performance regional plant - the Upper Occoquan Sewage Authority (USOA) - and the elimination of ~~eleven~~ 11 low-performance treatment plants in favor of the USOA facility. The ~~eleven~~ 11 low-performance treatment plants constituted the major point sources of pollution in the Occoquan Watershed; however, there are a number of smaller sewage treatment facilities which are still discharging. These facilities were not connected to the regional facility for at least one of the following reasons: ~~(a)~~ (i) a collector system to the regional plant was not constructed in close enough proximity to provide service, ~~and~~ or ~~(b)~~ (ii) the small facility was outside of the service area for the regional plant. At some point in the future, these remaining plants may wish to expand and increase their flows.

II. B. Existing waste treatment facilities may be expanded to receive increased sewage flows; however, the degree of treatment must also be upgraded so that there will be no increase in the quantity of pollutant loadings discharged to the receiving stream. A no-discharge land-application system may be considered in lieu of upgrading a facility.

III. C. Plants exceeding *not meeting* approved design performance limits will not be allowed additional capacity until the owner has installed additional treatment and demonstrated by means of a minimum of three months of performance data that the plant has been brought within its approved design performance levels and can accept additional waste loads without exceeding such approved design performance levels.

IV. D. No expansion or *continued discharge* shall be approved until the owner gives a written agreement to the State Water Control Board stating that the facility will connect to a regional facility when the appropriate conveyance facilities become available if it is feasible for the flow to be directed to a regional plant.

V. E. Proposed interim expansion of plants shall be reviewed with the appropriate regional sewage authority and its concurrence obtained to assure that such expansions are coordinated with the authority regional plans and can be readily incorporated into the regional system. The appropriate regional sewage authority concurrence shall be obtained before the State Water Control Board approval is given.

VI. F. The plans and specifications for expansion of collection and interceptor systems shall be reviewed with the appropriate regional sewage authority and its concurrence obtained for its comments before they are submitted to the board and the State Virginia Department of Health for approval. Any proposed expansion of collection and interceptor systems shall meet the technical and administrative requirements of Subpart B., Section VI. § 2 F, and the jurisdiction proposing such an expansion shall submit a formal letter to the board stating that its expansion will meet the requirements of Section VI § 2 F.

## SUBPART D. OCCOQUAN WATERSHED MONITORING PROGRAM (OWMP)

### § 4. Occoquan Watershed Monitoring Program (OWMP).

Due to the critical nature of the receiving waters, intensive monitoring will be required to ensure that plants achieve desired performance levels at all times, and the effects of point sources and nonpoint sources on the receiving waters are measured and projected.

#### I. A. Watershed Monitoring Subcommittee.

A. 1. In order to ensure that performance levels are maintained and that the effects of point sources and nonpoint sources on receiving waters are known, a Watershed Monitoring Subcommittee shall be established and shall be convened at least twice once each calendar year. A subcommittee of this type must necessarily be composed of high-caliber personnel knowledgeable in the field of water and wastewater treatment and management. Accordingly, the subcommittee shall consist of three two ex-officio

members or their designated representatives as follows:

1. Executive Secretary, State Water Control Board.
2. a. Director of State Virginia Department of Health's Division of Water Programs.
3. b. Director of Virginia Department of Conservation and Recreation's Division of Soil and Water Conservation Commission; and three other members or their designated representatives as follows:
4. c. A representative of the Environmental Protection Agency.
5. d. A representative of a state university in Virginia.
6. e. A nationally recognized consultant in the water and wastewater treatment field or water quality management fields.

B. 2. The ex-officio members shall select and submit to the [ State Water Control Board board ] for approval the names of the other members of the subcommittee. The subcommittee shall elect a chairman and such chairmanship shall be rotated on a biennial basis.

C. 3. From time to time the subcommittee may seek additional expert advice.

#### II. B. Monitoring subcommittee's responsibilities.

The Watershed Monitoring Subcommittee shall have the following responsibilities:

1. To ensure oversee that there is adequate monitoring of the regional plant effluent and process control testing at the regional plant.
2. To develop a water quality monitoring program for the Occoquan Reservoir and its tributary streams to ensure that there is a continuous record of water quality available. To further ensure that projections are made to determine the effect of additional waste loading from point sources as well as nonpoint sources.
3. To ensure that the stream monitoring program is separate and distinct from plant process control testing and effluent monitoring.
4. To review data collected from the monitoring program and submit to the board and the various jurisdictions reports on the status of plant performance and water quality in the watershed every six months at least once each year. All reports by Occoquan Watershed Monitoring Program (OWMP) or Occoquan

# Final Regulations

Watershed Monitoring Laboratory (OWML) personnel concerning evaluation of Occoquan monitoring data must be approved by the Occoquan Watershed Subcommittee prior to release or publication.

5. To report to the board immediately significant changes in plant performance or water quality due to either point source or nonpoint source pollution.

6. To maintain close liaison with the Fairfax County Water Authority in order to ensure satisfactory raw water which can be adequately treated at the authority's facilities.

7. To establish the Occoquan Watershed Monitoring Laboratory (OWML) to conduct sampling and analyses to fulfill the above responsibilities.

## III. C. Provision for restructuring of the OWMP.

A. 1. The Occoquan Watershed Monitoring Program (OWMP) and the Occoquan Watershed Monitoring Laboratory (OWML) were established in accordance with the above provisions. This was done on July 1, 1972. Since that time a large body of information regarding the functioning of the Occoquan Reservoir system has been accumulated. Major point sources have been consolidated into and eliminated by a high-performance sewage treatment facility (USOA). As growth increases in the watershed, this trend is expected to continue.

B. 2. The work performed by OWML has indicated that the key to water quality is a two-part issue. Those parts are point source pollution and nonpoint source pollution. Point source discharges in the watershed are currently regulated by the board's [ NPDES VPDES ] permit program. Nonpoint sources of pollution are currently being addressed by state and local voluntary and mandatory control programs. However, in the future it may be necessary that additional mandatory programs be adopted.

C. 3. Recently, several jurisdictions have expressed concern about the continuance of the OWMP in regard to monitoring nonpoint source pollution. Therefore the subcommittee should re-evaluate its program direction and means of funding to more adequately reflect the concerns and needs of its supporting jurisdictions, specifically to direct more attention to the effects of nonpoint source pollution of the Occoquan Reservoir. A program restructuring shall take place to account for shifts in monitoring trends and funding by December 31, 1982, or the regional sewage authority must assume the monitoring program. The program shall be evaluated periodically for restructuring to account for shifts in monitoring trends and funding and any recommended restructuring approved by the board prior to implementation. The regional sewage plants are ultimately responsible for the monitoring program with the exception of the nonpoint source

elements.

## IV. D. Financing the OWMP.

A. 1. It is recommended that the cost of the OWMP be split equally between water supply and sewage uses. This would mean that the Fairfax County Water Authority would have to fund half of the OWMP budget while the counties of Fairfax, Prince William, Loudoun, and Fauquier and the cities of Manassas and Manassas Park would be responsible for jointly funding the other half. That portion of the OWMP budget funded by the counties and cities would be divided so that each jurisdiction would be charged in proportion to its allotted sewage capacity in the Occoquan Watershed. The budget shall be reviewed by the jurisdictions prior to approval by the subcommittee.

B. 2. Written agreements shall be obtained from each of the jurisdictions which shall commit them to supply the above funds yearly to finance the OWMP. This monitoring program is for their protection and benefit. If for some reason a county or city does not wish to retain its sewage allotment in the Occoquan Watershed and/or will not fund the monitoring program, then its allotment can be divided up among the remaining participating jurisdictions, with their portion of the cost of the monitoring program rising accordingly. *The regional sewage plants are ultimately responsible for monitoring with the exception of nonpoint source elements.*

C. 3. If federal funds and assistance can be obtained, the cost to the counties and the Fairfax County Water Authority will be reduced proportionally. The funding of the program without federal funds is to be assumed, so as not to further delay or complicate the initiation of this program.

D. The State Water Control Board staff coordinator will be responsible for controlling the funding of the OWMP.

4. The Office of Sponsored Programs, Virginia Polytechnic Institute and State University, has agreed to be responsible for billing, receiving, and disbursement of funds to the OWMP.

\* \* \* \* \*

Title of Regulation: VR 680-15-01. Water Withdrawal Reporting.

Statutory Authority: § 62.1-44.38 of the Code of Virginia.

Effective Date: December 5, 1990.

### Summary:

Section 62.1-44.38 C of the Code of Virginia authorizes the State Water Control Board to require by regulation

that specified users shall report their water withdrawals to the board. The SWCB has used this information in its water supply planning work required by § 62.1-44.38 and will use the information in establishing and administering surface water management areas as described in §§ 62.1-44.242 through 62.1-44.253.

The purpose of the amendment is to extend the reporting requirement to specified crop irrigators and to withdrawers of saline surface waters. Both classes of users were exempt, creating gaps in the information base. A further purpose is to conform with the style and format requirements of the Virginia Registrar of Regulations.

The SWCB administers this annual reporting program. It provides reporting forms to affected persons, follows up to ensure reporting, and analyzes and summarizes the data obtained.

## VR 680-15-01. Water Withdrawal Reporting.

### Section 11.1 - Purpose and Authority

This regulation has been adopted under § 62.1-44.38(C) of the Code of Virginia to provide water withdrawal information to the State Water Control Board ("Board") for its use in preparing plans and programs for the management of water resources of the Commonwealth pursuant to § 62.1-44.38. The data will be used by the Board in formulating water supply plans for consideration by the General Assembly and will be available to local governments and private interests to assist them in their own water supply planning.

### Section 11.2 - Definitions

For the purpose of this regulation, the following terms shall have the following meanings:

(a) "Person" means the Commonwealth or any of its political subdivisions, or an individual, corporation, partnership, association, authority, interstate body, or a state, or an agency, municipality, commission, or political subdivision of a state.

(b) "Gage" means a device or methodology for measuring cumulative volume of water withdrawn. For users subject to the Waterworks Regulations, the gage shall satisfy the provisions of those Regulations and shall produce volume determinations within  $\pm 10\%$  of truth. For all other users, the gage shall be consistent with sound generally-accepted engineering practice and shall produce volume determinations within  $\pm 10\%$  of truth.

(c) "User" means any person making a withdrawal of surface water or ground water from an original source (e.g. a river, stream, lake, aquifer, or

reservoir fed by any such water body), regardless of whether the user himself uses the water thus withdrawn or transfers it to another for use. The purchase of water from a waterworks by a customer thereof does not constitute a withdrawal.

(d) "Daily average withdrawal" shall be calculated by dividing the total quantity of water withdrawn in each calendar month by the number of days in that month.

(e) "Saline surface water" means any natural surface water having a salinity greater than 2.0 parts per thousand.

### § 1. Definitions.

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

"Board" means the State Water Control Board.

"Crop" means a living or once-living plant or part thereof which is or could be harvested for value. The term includes, but is not limited to, conventional farm crops, hay, pasture, nursery and forest crops. Permanent turf and landscapings are not crops and are subject to the 10,000 gallons per day reporting threshold.

"Daily average withdrawal" shall be calculated by dividing the total quantity of water withdrawn in each calendar month by the number of days in that month.

"Gage" means a device or methodology for measuring cumulative volume of water withdrawn. For users subject to the Virginia Department of Health Waterworks Regulations, the gage shall satisfy the provisions of those regulations and shall produce volume determinations within plus or minus 10% of truth. For all other users, the gage shall be consistent with sound generally-accepted engineering practice and shall produce volume determinations within plus or minus 10% of truth.

"Person" means the Commonwealth or any of its political subdivisions; or an individual, corporation, partnership, association, authority, interstate body, or a state; or an agency, municipality, commission, or political subdivision of a state.

"User" means any person making a withdrawal of surface water or ground water from an original source (e.g., a river, stream, lake, aquifer, or reservoir fed by any such water body), regardless of whether the user himself uses the water thus withdrawn or transfers it to another for use. The purchase of water from a waterworks by a customer thereof does not constitute a withdrawal.

"VPDES" means the Virginia Pollutant Discharge Elimination System, which is the Virginia system for the issuance of permits pursuant to VR 680-14-01 (Permit

# Final Regulations

Regulation), the State Water Control Law and § 402 of the Clean Water Act, authorizing the discharge of pollutants from a point source to surface waters.

## § 2. Purpose and authority.

This regulation requires the reporting of water withdrawal information to the board for its use in preparing plans and programs for the management of water resources of the Commonwealth pursuant to § 62.1-44.38 of the Code of Virginia. The data are used by the board in formulating water supply plans, for consideration by the General Assembly and in delineating surface water management areas and are available to local governments and private interests to assist them in their own water supply planning.

## Section 11.3 - Applicability and Exemptions

(a) Except as stated in this section, this regulation applies to every user withdrawing ground water or surface water whose daily average withdrawal during any single month exceeds 10,000 gallons per day.

(b) This regulation does not apply to a user who himself uses the water for crop irrigation. However, if a user's daily average withdrawal during any single month for uses other than irrigation of his own crops exceeds 10,000 gallons per day, this regulation applies.

(c) This regulation does not apply to a user that is a department, agency, or instrumentality of the United States.

(d) This regulation does not apply to users reporting under the provisions of the Groundwater Act the information herein required, provided the withdrawal is gaged in accordance with this regulation.

(e) This regulation does not apply to withdrawals of saline surface water.

(f) This regulation does not apply to withdrawals from mines or quarries made for the sole purpose of dewatering the mine or quarry, provided that the water withdrawn is not put to other beneficial uses such as, but not limited to, washing or cooling.

(g) This regulation does not apply to the withdrawals made for the sole purpose of hydroelectric power generation, provided that the water withdrawn is not put to other beneficial uses and that none of it is consumptively used.

(h) Users subject to the Waterworks Regulations of the State Department of Health shall annually report to the Board the source and location of water withdrawals and the type-of-use information required

herein. They may provide the herein required monthly-withdrawal data by reference to reports filed with the Department.

(i) Industrial NPDES permittees shall annually report to the Board the source and location of water withdrawals and the type-of-use information required herein. They may provide the herein-required monthly-withdrawal data by reference to NPDES discharge monitoring reports filed with the Board provided that:

(1) The wastewater return flow to the receiving natural water body is gaged and the aggregate monthly volume is totaled and reported on the discharge monitoring reports, and

(2) there is no substantial temporal lag between natural water withdrawal and wastewater return, and

(3) augmentation of the withdrawal, e.g. by collected surface runoff or infiltration/inflow, and diminution of the withdrawal, e.g. by consumption in product or evaporation, are either shown to be negligible or are separately reported pursuant to this regulation as adjustments to the wastewater return flow, and

(4) the monthly wastewater return flow, adjusted as necessary in accordance with subparagraph (3) of this section, is volumetrically equivalent to monthly withdrawal within a tolerance of  $\pm 10\%$ .

## § 3. Applicability and exemptions.

### A. Applicability.

1. Except as stated in this section, this regulation applies to every user withdrawing ground water or surface water in Virginia including the Potomac River abutting Virginia whose average daily withdrawal during any single month exceeds 10,000 gallons per day. Reportable withdrawals include, but are not limited to, those for public water supply, manufacturing, mining, commercial, institutional, livestock watering, artificial fish culture, and steam-electric power generation uses.

2. This regulation applies to every user withdrawing ground or surface water for the purpose of irrigating crops whose withdrawal exceeds 1 million gallons in any single month. Such users need not report withdrawals from ponds collecting diffuse surface water and not situated on a perennial stream as defined on U.S. Geological Survey 7.5-minute series topographic maps, unless the ponds are dug ponds which intercept the ground water table and hence contain ground water.

### B. Exemptions.

1. This regulation does not apply to:

a. Users reporting under the provisions of The Groundwater Act the information herein required, provided the withdrawal is gaged in accordance with this regulation.

b. Drydock fillings.

c. Withdrawals from mines or quarries made for the sole purpose of dewatering the mine or quarry, provided that the water withdrawn is not put to other beneficial uses such as, but not limited to, washing or cooling.

d. Withdrawals made for the sole purpose of hydroelectric power generation, provided that the water withdrawn is not put to other beneficial uses and that none of it is consumptively used.

2. Users subject to the Virginia Department of Health Waterworks Regulations shall annually report to the board the source and location of water withdrawals and the type of use information required herein. They may provide the herein required monthly withdrawal data by reference to reports filed with the Virginia Department of Health.

3. Industrial VPDES permittees shall annually report to the board the source and location of water withdrawals and the type of use information required herein. They may provide the herein required monthly withdrawal data by reference to VPDES discharge monitoring reports filed with the board provided that:

a. The wastewater return flow to the receiving natural water body is gaged and the total monthly volume is reported on the discharge monitoring reports, and

b. There is no substantial temporal lag between natural water withdrawal and wastewater return, and

c. Augmentation of the withdrawal (e.g., by collected surface runoff or infiltration/inflow) and diminution of the withdrawal (e.g., by consumption in product or evaporation) are either shown to be negligible or are separately reported pursuant to this regulation as adjustments to the wastewater return flow, and

d. The monthly wastewater return flow, adjusted as necessary in accordance with subdivision 3 c of subsection B, is volumetrically equivalent to monthly withdrawal within a tolerance of plus or minus 10%.

#### Section 11.4 - Requirement for Registration

(a) Every nonexempted user shall have installed and shall operate a gaging device or methodology by January 1, 1983 or before commencing withdrawal, whichever is later.

(b) Every nonexempted user shall file with the Board by January 31 of each year a form, State Water Control Board Annual Report of Water Withdrawals, completed insofar as it pertains to his withdrawal for the calendar year preceding.

The first filing is due January 31, 1983 and may be based on estimated withdrawal information, provided gaged data are not available. Subsequent filings shall be based on gaged information.

#### § 4. Measuring and reporting requirements.

##### A. Measuring.

Every nonexempt user other than crop irrigators shall have installed and shall operate a gaging device or methodology before commencing withdrawal and shall operate the device or methodology routinely thereafter. The gaging device or methodology shall measure the cumulative volume of water withdrawn at or near the source of withdrawal, or at the water treatment plant. Nonexempt crop irrigators shall comply with these measuring provisions by January 31, 1991, or before commencing withdrawal, whichever is later.

##### B. Reporting.

Every nonexempt user shall file with the board by January 31 of each year a reporting form, as prescribed by the board, completed insofar as it pertains to his withdrawal for the calendar year preceding. The information reported shall include the user's name, address, source(s) and locations of withdrawal, cumulative volume of water withdrawn each month of the calendar year, maximum day withdrawal and the month in which it occurred, and method of withdrawal measurement.

Nonexempt crop irrigators shall comply with these reporting provisions by January 31, 1992, or before commencing withdrawal, whichever is later.

#### Section 11.5 - Requirements for Gage Maintenance and Records Retention

Every user shall:

(a) Ensure the reliability of the gaging device or methodology;

(b) Retain all records of water withdrawal and gage calibration for a period of three years;

(c) Make such records available to the Board upon request.

#### § 5. Gage maintenance and records retention requirements.

Every user shall:

1. Ensure the reliability of the gaging device or

# Final Regulations

methodology;

2. Retain all records of water withdrawal and gage calibration for a period of three years; and

3. Make such records available to the board upon request. The board encourages users to confer with the board staff before installing gaging devices or methodologies.

## Section 11.6 - Discretionary Requests

The Board requests that users exempted from this regulation gage their withdrawals and submit a completed Annual Report of Water Withdrawals form to the Board by January 31 of each year.

The Board encourages users to confer with the Board staff before installing gaging devices or methodologies.

Owners of hydroelectric power plants are requested to inform the board of the existence of the facilities.

## Section 11.7 Severability

Every portion of this regulation is severable.

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**Title of Regulation:** VR 680-21-08. River Basin Section Tables - Water Quality Standards.  
**VR 680-21-08.4. Potomac River Basin - Potomac River Subbasin.**

**Statutory Authority:** § 62.1-44.15(3a) of the Code of Virginia.

**Effective Date:** December 5, 1990.

## Background:

Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

## Summary:

The amendment revises the section description for Opequon Creek, Put and Take Trout Waters, § 11, Potomac River Subbasin of the Water Quality Standards. The location of the put and take trout waters was incorrectly described by the State Water Control Board when the trout waters in Opequon Creek were first classified. The result of the action is that a portion of § 11 is reclassified as Mountainous

*Zone Waters. This revision is supported by a recommendation from the Department of Game and Inland Fisheries which is the agency responsible for determining appropriate trout stream classifications.*

VR 680-21-08. River Basin Section Tables - Water Quality.

VR 680-21-08.4. Potomac River Basin - Potomac River Subbasin.

SEC.	SECTION DESCRIPTION	CLASS	SP.STDS.
11	Tributaries of the Potomac River in Frederick and Clarke Counties Virginia, unless otherwise designated.	IV	pH-6.5-9.5
	Put and Take Trout Waters in Section 11	V	pH-6.5-9.5
	Opequon Creek (in Frederick County) from 24.2 miles above its confluence with the Potomac River 10 miles upstream its confluence with Hoge Run upstream to the point at which Route 620 first crosses the stream	VI	

# EMERGENCY REGULATIONS

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**Title of Regulation:** VR 615-45-1. Child Protective Services Central Registry Information.

**Statutory Authority:** § 63.1-25 and Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63 of the Code of Virginia.

**Effective Dates:** October 10, 1990 through October 9, 1991.

### Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled "Child Protective Services Central Registry Information".

2. **PURPOSE OF REQUEST:** The purpose of this request to take emergency action is to continue the existing emergency regulation while amendments to that regulation can be promulgated through the regular Administrative Process Act.

3. **PERSONS AFFECTED BY THIS REGULATION:** All persons who are subjects in reported child abuse and neglect complaints will be impacted by this regulation.

**BACKGROUND:** The existing regulations were submitted as emergency regulations in September 1989. The intent at that time was to conduct a comprehensive study of the various factors which impact on the regulations. The study is nearly completed and the Department plans to submit the proposed amended regulation through the regular Administrative Process Act once it is developed and approved by the State Board of Social Services. However, it is necessary to resubmit the regulation on an emergency basis in order to insure that regulations are in place until such time as a regulation is finalized.

5. **AUTHORITY TO ACT:** This child protective services regulation has been developed pursuant to the authority of the State Board of Social Services to promulgate regulations as per § 63.1-248 et seq. of the Code of Virginia.

6. **FISCAL IMPACT:** None.

7. **FUTURE DEPARTMENT ACTION:** The Department of Social Services plans to submit amended regulations through the regular Administrative Process Act. Public comment and input will be solicited during the development period. Copies of the proposed regulation will be sent to persons/organizations who are identified as interested persons.

### Preface:

It is necessary for the proposed procedures to be

published as emergency regulations due to the need to maintain regulations while amended regulations are promulgated and established.

VR 615-45-1. Child Protective Services Central Registry Information.

## PART I. DEFINITIONS.

§ 1.1. The following words and terms when used in conjunction with this regulation shall have the following meaning, unless the context clearly indicates otherwise:

"Central registry" means the name index of individuals involved in child abuse and neglect reports maintained by the Virginia Department of Social Services.

"Child protective services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for, and/or providing social casework and other services for the child, his family, and the alleged abuser.

"Complaint" means a valid report of suspected child abuse/neglect which must be investigated by the local department of social services.

"Founded" means that a review of the facts shows clear and convincing evidence that child abuse or neglect has occurred.

"Identifying information" means name, race, sex, and date of birth of the subject.

"Investigating agency" means the local department of social services responsible for conducting investigations of child abuse/neglect complaints as per § 63.1-248.6 of the Code of Virginia.

"Reason to suspect" means that a review of the facts shows no clear and convincing evidence that child abuse and neglect has occurred. [ However, the situation gives the worker reason to believe that abuse or neglect has occurred. ]

"Unfounded" means that a review of the facts shows no reason to believe that abuse or neglect occurred.

## PART II. POLICY.

§ 2.1. Determination of risk.

The investigating agency determines risk by completing a thorough assessment of factual information available to the investigating agency as it pertains to the complaint situation. The assessment includes information about the abuse/neglect incident, the caretaker, the child, the family and other special circumstances to determine what level of



# Emergency Regulations

risk the situation poses to the child or to other children.

## § 2.2. Levels of risk.

The three levels of risk are:

### A. High risk.

The worker's assessment of risk-related factors indicates a likelihood that the child is in jeopardy of abuse/neglect, and that intervention is necessary in order to protect the child or other children.

### B. Moderate risk.

The worker's assessment of risk-related factors indicates that the child or other children are in possible jeopardy, but that a positive change in the situation is likely to occur with minimal intervention.

### C. No reasonably assessable risk.

The worker's assessment of risk-related factors indicates that the situation can and will be changed, that no additional intervention is necessary and that the child or other children are at no reasonably assessable risk of abuse/neglect.

## § 2.3. Maintenance of identifying information.

Identifying information in reports of child abuse and neglect shall be maintained in the central registry as follows:

A. Ten years past the child's eighteenth birthday for all complaints determined by the investigating agency to be founded.

B. One year from the date of complaint unless another complaint is received for all complaints determined by the investigating agency to be reason to suspect.

/s/ Larry D. Jackson  
Commissioner  
Date: August 23, 1990

/s/ Lawrence Douglas Wilder  
Governor  
Date: October 5, 1990

/s/ Ann M. Brown  
Deputy Registrar of Regulations  
Date: October 10, 1990

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**Title of Regulation:** VR 615-53-01. Child Day Care Services Policy.

**Statutory Authority:** §§ 63.1-55, 63.1-133.17, 63.1-133.24, and 63.1-248.6 of the Code of Virginia.

**Effective Dates:** October 9, 1990 through October 8, 1991.

## Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled "Child Day Care Policy" pursuant to actions on August 15, 1990 by the State Board of Social Services.

2. **PURPOSE OF THE REQUEST:** Public Law 100-485 mandates that states implement welfare reform, and a part of this reform involves changes in the way states deliver child day care services. One of the major changes is the provision of transitional or continued child day care services for certain former recipients of ADC (Aid to Dependent Children). This change began in Virginia on April 1, 1990 by way of emergency regulation VR 615-53-01. The other changes necessary for implementation must begin in Virginia on October 1, 1990 or the State's federal Title IV-A funding will be jeopardized. Final federal regulations on these changes were received by states on October 13, 1989.

The purpose of this emergency regulation is to implement these changes, and replace the emergency regulation in effect since April 1, 1990. Concurrently with this emergency regulation this policy is being submitted as a proposed regulation.

Local agencies are in need of policy guidance on how to implement new mandates related to welfare reform. The purpose of this request is to take emergency action in order to implement child day care policy changes for those populations that must be provided child day care services as of October 1, 1990.

3. **PERSONS AFFECTED BY THIS REGULATION:** This regulation affects all persons who are eligible for child day care assistance from the Department, including ADC recipients, income eligible families, and persons active with the state's Food Stamp Employment and Training Program. It will determine what procedures are to be followed to determine eligibility for child day care services, and how this child day care assistance will be provided.

This regulation will affect all 124 local departments of social services by establishing the procedures they will use to provide needed child day care services to eligible families in compliance with federal regulations pertaining to the Family Support Act of 1988.

The regulation will affect providers of child day care services in the Commonwealth by establishing the methods to be used by local agencies to make payments for child day care.

4. **BACKGROUND:** On October 13, 1988 Congress passed the Family Support Act (FSA); final regulations for implementation of the Act were issued to states on

# Emergency Regulations

October 13, 1989. The Act mandates that states provide supportive services to families, including child day care. Parts of the Act related to transitional child day care were implemented in Virginia on April 1, 1990. Other parts of the Act mandate the implementation of JOBS (Jobs Opportunities and Basic Skills Training Program) to begin in Virginia no later than October 1, 1990.

In April, 1989 the Secretary of Health and Human Resources and the Commissioner of the Department of Social Services appointed a Child Day Care Task Force to review the existing child day care program to determine changes needed to support the existing program, and to recommend the best ways of accommodating anticipated growth and changes in a coordinated manner. Knowing that certain changes would be mandated for welfare reform, it was felt that this review and revision effort could encompass these changes as well as others needed.

The Task Force is comprised of representatives from the Office of the Secretary of Health and Human Resources, the Department of Children, the Department of Education, the Council on Child Day Care and Early Childhood Programs, the Council on the Status of Women, the Day Care Council, the Department's Division on Licensing Programs, and the Department's regional offices and local agencies.

The Task Force structure includes a Steering Committee and two sub-committees. One sub-committee is the Policy Review and Revision Committee, charged with reviewing current child day care policy and making changes needed to meet the mandates of welfare reform. The other sub-committee is the Evaluation, Monitoring, and Information Systems Committee, charged with overseeing information, monitoring, and reporting needs of the child day care program. Care was taken to obtain equitable representation from urban, suburban and rural areas of the State. This proposed emergency regulation is the result of the Task Force's efforts since June of 1989.

5. **AUTHORITY TO ACT:** The Code of Virginia, Sections 63.1-55, 63.1-133.17, 63.1-133.24, and 63.1-248.6, gives authority to the State Department of Social Services to promulgate regulations on how child day care services funded through the Department will be provided in the Commonwealth.

6. **FISCAL IMPACT:** Implementing welfare reform in Virginia will increase the child day care caseload because implementation involves new federally mandated target populations. These new mandated populations must be served with day care when it is needed and available.

One new mandated child day care program has already started in Virginia. The transitional child day

care program began on 4/1/90 and will continue through the fiscal year 90/91. This program serves eligible former recipients of ADC with up to 12 months of child day care when this is needed in order for the parent to work.

Another new mandated population will be those participating in Virginia's Food Stamp Employment and Training Program. The department will be mandated to provide day care when needed in order for parents to participate in this program.

These will also be new mandated groups within the ADC recipient population. Those recipients with children between the ages of 3 and 6 will be a new mandated target population for Employment Services, and those under the age of 20 who do not have a high school education will be another group.

Although not directly related to welfare reform, the Department will be continuing to administer the State and locally funded child day care fee program for income eligible families. This program serves the working poor with day care subsidy, a subsidy that enables them to remain employed and off full assistance. Effective 10/1/90 this program will also be able to serve those needing education or training to reach their employment goals.

Below is a funding chart which shows the funds appropriated for these child day care programs by the 1990 General Assembly.

#### POTENTIAL FUNDING FOR CHILD DAY CARE SERVICES (Exclusive of Migrant Day Care Program)

	Federal	General Fund	Local	Total
ADC Day Care	\$1,995,000	\$2,472,311	\$496,368	\$4,963,679
JOBS/ESP	1,360,416	1,088,332	272,083	2,720,831
FSET	592,812	472,250	118,562	1,185,624
Transitional	1,871,859	1,497,487	374,372	3,743,718
Fee	-0-	6,300,000	700,000	7,000,000
				\$19,613,852

Department statistics show that as of December, 1989 the average payment per child by the department for child day care services was \$186.35 per month. Applying this average cost to the above funding available, it is estimated that 8,771 children can be served with day care assistance each month during FY 90/91.

7. **FUTURE DEPARTMENT ACTION:** Copies of the proposed regulation will be sent to persons and organizations who have been identified as interested parties. Day care providers and parents will also be involved.

#### Preamble:

Federal Public Law 100-485 mandates that states implement welfare reform. A major part of welfare

# Emergency Regulations

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reform involves how states deliver child day care services. All of the new mandates related to child day care services must be implemented in Virginia by October 1, 1990 or the State's federal Title IV-A funding will be jeopardized. The final federal regulations were received by states on October 13, 1989. Local agencies must have policy to implement the new changes. The transitional child day care changes have already been implemented in Virginia as of 4/1/90 by way of Emergency Regulation number VR 615-53-01. The attached Emergency Regulation is being promulgated simultaneously as a Proposed Regulation, and will replace and update the Emergency Regulation currently in effect. It includes the transitional child day care program, but also provides policy for all of the child day care assistance programs that are administered by the department.

VR 615-53-01. Child Day Care Services Policy.

## 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:

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

"Aid to Families with Dependent Children-Unemployed Parent" means the program authorized in Section 407 of the Social Security Act which provides aid to dependent children who are deprived of parental support or care by reason of the unemployment of the parent who is the principal wage earner.

"AFDC-UP" means Aid to Families with Dependent Children-Unemployed Parent program.

"Agency" means a local department of social services/welfare.

"Child" means an individual from birth to 13 years of age, or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or are subject to court supervision.

"Child day care services" means those activities that assist eligible families in the arrangement and/or purchase of day care for children.

"Day care center" means a facility operated for the purpose of providing care, protection, and guidance to a group of children separated from their parents during a

part of the day.

"Department" means the Virginia Department of Social Services.

"Developmental day care" means day care provided for handicapped children, or children with physical, mental or emotional problems such as learning disabilities, behavior disorders, and/or inability to adjust with the family and peers.

"Education leading to employment" means the pursuit of basic remedial instruction to achieve a basic literacy level, instruction in English as a second language, preparation for G.E.D. or Adult Education, the completion of high school, associate degree or certificate, work at the college level or bachelor degree from a college or university if the course of instruction is limited to a curriculum directly related to the fulfillment of an individual's educational goal to obtain useful employment in a recognized profession or occupation.

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

"ESP" means the Employment Services program.

"Family day care provider" means a person who is responsible for the supervision and care of children in the provider's home.

"Federal Title IV-A Funding" means funding provided to states from the federal government through the Social Security Act to fund the AFDC program, child day care for AFDC recipients, and the transitional child day care program.

"FSET" means Virginia's Food Stamp Employment and Training Program, a program to provide non-AFDC able-bodied recipients of Food Stamps with employment and training services.

"Full-time employment" means regularly scheduled activities that engage a participant in employment for 30 or more hours per week.

"Good cause" means a valid reason why an unemployed parent in a two parent household cannot provide the needed child day care. The rationale for the agency's decision must be documented in the case record.

"Income eligible" means that eligibility is based on income and determined by measuring the family income and size against the state median income chart.

"In-home day care provider" means a person who is responsible for the supervision and care of children in the

child's own home.

"IV-A earned income disregard" means the method by which the cost of child day care is not included in determining initial and ongoing eligibility and the amount of the benefit for working applicants and recipients of AFDC.

"JOBS" means the Job Opportunities and Basic Skills Training Program for AFDC, General Relief, and AFDC-UP recipients effective October 1, 1990.

"Job Search" means the activity whereby participants are required to make a certain number of employer contacts a week for a specific length of time.

"Market rate" means the percentile, selected by the State Board of Social Services at the recommendation of the Commissioner, not to exceed the 75th percentile of the range of costs in a community for a particular type of child day care.

"Parent" means primary adult caretaker or guardian of a child.

"Parental access" means that parents may visit the day care setting at any time their child is in care.

"Part-time employment" means any regularly scheduled activity that engages a participant in employment for a minimum of eight hours but less than 30 hours per week.

"Postsecondary education" means any course of instruction beyond that of high school offered by an institution of higher education as determined by the Secretary of Education to meet the Higher Education Act of 1965.

"Purchase of Service Order" means a form sent to a vendor to authorize the delivery of services to a client.

"Regulated provider" means a child day care provider who is either state licensed, county approved, or local agency approved.

"Relative Provider" means a child day care provider related to the parent or child by blood or marriage.

"Resource and referral services" means the provision of education regarding child day care choices and assistance with locating appropriate child day care placements, provided by a recognized referral resource or a local agency.

"Satisfactory progress" means that the participant in any educational or training activity is meeting, on a periodically measured basis of less than one year such as a term or quarter, a consistent standard of progress based on written policy developed by the educational institution or training agency and approved by the IV-A agency.

"Service plan" means the written, mutually agreed upon course of action determined by the parent and service worker.

"State median income" (SMI) means the level of income by family size which represents the mid point of income levels in Virginia.

"Training leading to employment" means the development of specific work attitudes, behaviors, or skills leading to job readiness as well as the development of specific technical or vocational skills that lead to employment in a recognized occupation and results in other than a baccalaureate or advanced degree.

"Transitional child day care services" means the day care services (up to 12 months) for which certain former recipients of AFDC are eligible after April 1, 1990.

"Unregulated provider" means any child day care provider who is not state licensed or locally approved and is not subject to such licensure or approval.

"USDA food program" means the United States Department of Agriculture program to reimburse regulated child care providers for meals and snacks served to eligible children in the day care setting.

"Vendor" means a provider who can sell services.

## PART II. POLICY.

### Article 1. Individuals to be Served.

#### § 2.1. Children to be Served.

Child day care services shall be provided for eligible families with children who need day care and who are under age 13, or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or subject to court supervision. Day care shall not be purchased for children who are eligible to attend kindergarten or for older children during the portion of a day when appropriate public education is available unless there are reasons the children must be out of school.

#### § 2.2. Mandated Eligible Populations.

Child day care shall be guaranteed for the following groups.

##### A. Aid to Families with Dependent Children

1. Children in an AFDC assistance unit are eligible for necessary child day care services to enable an AFDC eligible family member to participate in required Employment Services Programs (ESP/JOBS) activities. This includes those AFDC recipients referred to ESP/JOBS because they are in self-initiated education

# Emergency Regulations

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or training.

2. *Children in an AFDC assistance unit are eligible for necessary child day care services to enable a non-ESP AFDC recipient to accept employment or remain employed.*

3. *Child day care services shall be provided for children who would have been in the assistance unit if it were not for the receipt of SSI under Title XVI or foster care payments under IV-E when the eligible family member is engaged in 1. or 2. above.*

## *B. Income Eligible Recipients*

*Child day care subsidy for income eligible parents shall be made available on a sliding fee scale basis. All income eligible parents will contribute towards the cost of care.*

### *1. Transitional Services*

*Parents who have received AFDC for any three of the past six months upon loss of eligibility for AFDC because of employment and meeting other department eligibility requirements, are eligible for up to 12 consecutive months of child day care. This eligibility is from the date of closure of AFDC as long as the parents remain income eligible. Parents must be working in order to receive transitional services.*

*Children must have been on the grant during the last month of receipt of AFDC, or would have been on the grant were it not for receipt of SSI or foster care.*

*Eligibility for the program must be determined in accord with state board of social services policy and federal regulations, and eligibility determination must be coordinated with the local agency eligibility unit that was responsible for the former AFDC case.*

*The agency must inform the former recipient that transitional child day care benefits are available. This information shall be made available at the time of initial eligibility and at the time of notification of ineligibility for AFDC. Eligible families must request this extension of services in writing.*

*If parents meet the eligibility criteria for transitional services, transitional funding shall be used, except in situations where notices of action do not permit payment in a timely manner. In these cases AFDC/ESP funding can be used for one month to give the agency time to set up the transitional funding.*

### *2. Child Day Care Fee System Services*

*To the extent that funding is available, localities shall provide child care subsidies to income eligible clients who are employed or in education/training leading to employment.*

## *C. Food Stamp Recipients*

*Child day care shall be made available for children of recipients of Food Stamps who are participating in Virginia's Food Stamp Employment and Training Program, at a cost of up to federally allowed maximum.*

### *§ 2.3. Non-Mandated Reasons For Services.*

*Child day care may be provided for eligible parents for the following reasons.*

#### *A. Child Protective Services*

*Child day care may be used to provide protection for children if the family situation places children in jeopardy or subject to abuse or neglect; the tensions or deviant behavior of the adults or other children in the home make it desirable for the children to be out of the home part of the day; or a period of family counseling and rehabilitation makes care of the children away from the home necessary.*

#### *B. Illness or Absence of Parent*

*Child day care services may be provided for a short period of time if there is no other person available to provide care without cost.*

*Parents must be unable to provide care due to illness, absence from the home for medical diagnosis or other short term emergency, outpatient treatment, or for a period of hospitalization.*

#### *C. Developmental Child Day Care*

*Child day care may be used to provide specialized developmental opportunities for children if care required for normal growth and development is not available in the home.*

### *§ 2.4. Good Cause.*

*In two-parent households where one parent is unemployed, there shall be good cause why that parent cannot provide the needed child care before payment for child day care will be made.*

### *§ 2.5. Education and Training.*

#### *A. AFDC Recipients*

*Necessary child day care services to support a parent's participation in ESP/JOBS related education and training activities shall be provided if needed.*

#### *B. Child Day Care Fee System*

*For parents eligible for the child day care fee system, day care needed to support attendance and completion of high school, vocational school, or a postsecondary*

program may be provided if funding is available.

## C. Post Baccalaureate

Payment for child day care for the attainment of post baccalaureate education is not allowed, except with local only funding.

## D. Satisfactory Progress

Study shall be limited to a curriculum related to the fulfillment of an individual's educational goal. Participants in an educational or training program shall show that they are making satisfactory progress in order to continue receiving child day care services.

## Article 2. Child Day Care Settings.

### § 3.1. Child Day Care Centers, Family Day Care Homes and In-Home Providers.

Parents shall choose amount three major types of child day care; child day care centers, family day care homes, and in-home child day care providers.

### § 3.2. Types of Providers.

#### A. Regulated Providers

When purchasing child day care for those participating in the child day care fee system program, only regulated care shall be used.

Regulated providers will be paid directly by the agency by vendor payment after service provision.

#### B. Unregulated Providers

When child day care is purchased for recipients of AFDC, transitional services, or FSET using federal funds, parents may select regulated or unregulated providers as required by federal regulations.

When unregulated care is selected, the parent is responsible for all payments to the unregulated provider. With proper receipts, the parent may then be reimbursed by the agency.

#### C. Relative Providers

Local agencies shall not establish policy that prohibits the utilization of a relative as a child day care provider as long as the individual is not a part of the assistance unit or legally responsible for the child(ren) needing care.

## Article 3. Determination of Services To Be Provided.

### § 3.3. Service Planning Process.

#### A. Assessment

The family need for child day care shall be assessed at the time of application. Parents shall be informed of the full range of services offered by the agency. If it is clear that the only need is for child day care services, a simple assessment will suffice. If the family identified other needs, a full assessment shall be completed. A case shall be opened on all families that are to receive child day care services, and all appropriate case management procedures found in department manuals shall be followed. Parents shall be required to sign a service application.

#### B. Determination of Eligibility and Funding Source

1. The locality shall make the determination of where the family is eligible for child day care services, and the appropriate funding source to pay for the needed child day care services shall be identified.

2. Once eligibility is determined, parents will be informed as to whether their full costs of child day care will be paid or whether they will be required to pay a fee, and, if so, the amount of that fee. It is the parent's responsibility to pay all fees owed directly to the provider.

3. Recipients of AFDC shall have the full cost of needed day care paid by the agency in accordance with procedures found in department manuals.

4. Parents shall be informed of their responsibility to report to the local agency within 10 days changes in choice of providers, family size and income, or any other changes that could affect their eligibility for services. They shall also be informed that if they have involvement with the Division of Support Enforcement they shall be expected to cooperate with that division or risk loss of child day care benefits. For programs when parent fees are required, failure to pay fees or make adequate arrangements for paying back fees owed will result in ineligibility for services.

#### C. Resource and Referral

The service worker shall assist the parent to receive child day care resource and referral services, from a recognized community resource, including the local agency.

#### D. Selection of Provider

1. Agencies shall not establish policies that limit parental choice of providers.

2. In the selection of a provider, the service worker shall encourage the parent to consider the individual developmental needs of the child, ability of the provider to meet the needs of the family, proximity of the provider to the child's residence or school,

# Emergency Regulations

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proximity of the provider to parent's residence or employment site, travel time of the parent/child to the provider's location, and cost of care.

3. The service worker shall encourage the parent to choose regulated care if it is available. The service worker shall discuss with the parent the minimum standards for any agency approved provider of day care. Parents choosing unregulated care shall be required to acknowledge in writing that regulated care was offered and declined. The difference in payment methods for regulated and unregulated providers shall also be explained to the parent.

4. The parent has the ultimate responsibility for the selection of the child day care provider.

5. The service worker shall obtain the following information for all providers selected: full name, address, rates charged the general public for the type of child day care service provided, and whether the provider is regulated or unregulated.

## E. Service Plan

A written service plan shall be completed for every child day care case. If parents are active with the Employment Service Program the day care service plan shall be coordinated with the Employability Plan.

## F. Waiting List

For all families eligible for child day care services, except AFDC parents or recipients of transitional services, it may be necessary to place a family on an agency waiting list for child day care service. Service by date of request is an acceptable means of administering a waiting list. Any other proposed policy for a waiting list shall be sent to the regional office of the department for approval prior to submission to the local board of social services. Waiting list policy must assure that decisions are made uniformly and fairly.

## Article 4. Payment for Care.

### § 4.1. Types of Payment.

#### A. Direct Payment

For regulated providers, the agency will make payment for child day care by means of direct payment to the provider following department purchase procedures. Local agencies shall not make direct vendor payments to unregulated providers.

Local agencies may use a modification of the department's Purchase of Service Order form to make direct payment to regulated providers. Such a modified form would have to receive prior department approval and meet all requirements found in department manuals

to ensure that it contains all necessary elements to authorize the delivery of service to the family.

#### B. Reimbursement to Client

For unregulated providers, the parent shall make all payments directly to the unregulated provider. Parents will receive reimbursement when they submit to the agency proper documentation and receipts.

AFDC recipients who are working may choose to take the IV-A earned income disregard for child day care expenses, whether the provider selected is regulated or unregulated.

### § 4.2. Determining Payment Amount.

#### A. Market Rates of Pay

The department will establish local market rates for child day care for all localities in the state by type of care. Agencies shall pay the rates charged by providers up to the local market rate for a particular type of care. Agencies shall not establish their own maximum monthly rates of pay.

Parents who chose to place a child in a facility whose rate is above the local market rate shall pay the additional amount themselves, unless the agency selects to pay the additional amount out of local only funds. When agencies use local only funds to subsidize the cost of care above the local market rate, this policy shall be approved by the local board of social services and recorded in the minutes, including the maximum allowable subsidy. Subsidy decisions shall not be made on an individual care basis.

#### B. Unit Price

The unit price of service shall be based on a week or less. Rates paid will be based on provider enrollment and attendance policies and department payment policies.

The total cost of care, including special programs, activities fees and transportation, shall not exceed the local market rate.

Transportation services shall be paid using day care funds only when the transportation services are provided by the day care provider.

When an annual or one-time-only registration fee is not included in the market rate it shall be paid by the agency separately. One registration fee shall be paid per child per year, unless there are extenuating circumstances.

For justifiable reasons, child day care may be purchased for up to two consecutive weeks per month to prevent the disruption of day care services when:

- 1) The child(ren) is absent from care or,

# Emergency Regulations

2) The parent is away from the employment or the education or training site.

### C. Administrative Expenses

If funding is not available without cost or covered under Title XIX (Medicaid) or other insurances, payment may be made by the agency for needed medical and dental examinations required for the entry into day care for eligible children, and subsequently at intervals appropriate to the child's age or state of health. If such payments are made, they shall be paid out of service administration funds.

### D. Beginning Date of Service Payment

1. The beginning date of service payment authorization shall be no earlier than:

a. the date the individual is determined eligible for child day care services according to generic services eligibility policy in department manuals, and

b. the effective date of the approval of the provider when using regulated care.

2. For transitional services, payment shall be made retroactive to the date of eligibility (the month following the loss of AFDC) if the parent has requested the service and has proper receipts for day care paid, and proof of employment.

### E. Sliding Fee Scale

Child Day Care services shall be available to income eligible and transitional recipients on a sliding fee scale basis. Within available funds localities shall serve eligible families who earn 50% or less of the state median income. Localities can opt to serve families who earn up to 70% of the state median income with federal and state funds, and above 70% with local funds.

All parents receiving sliding fee scale subsidy must contribute towards the cost of their child day care.

The following sliding fee scale shall be used statewide for determining fees owed by parents in the fee system or transitional programs, unless a locality specifically wishes to use a variation for the state and locally funded fee system. In this case the locality must obtain prior department approval to use the alternative scale, and the approval must be based on specific, uniform criteria. Alternative scales shall not be approved for transitional child day care services.

#### State Sliding Fee Scale

% of State Median Income	% of Gross Income Family Pays (This is per family, not per child)
20% or less	1%

30%	2.5%
40%	5.0%
50%	7.5%
60%	10.0%
70%	15.0%
Over 70%	Family ineligible for fee subsidy except out of local only funding.

The agency shall adjust the parent's fee if the income of the parent moves the fee payment to a higher or lower level on the SMI scale.

Agencies have the option of assisting parents with the payment of the day care fee as determined by the sliding fee scale using local only funds. Local policy for the subsidy of parent fees shall be approved by the local board of social services and recorded in the minutes. Local policy governing subsidy for parent fees shall be applied uniformly.

#### Article 5.

#### Local Agency Service Delivery Responsibilities.

#### § 5.1. Local Child Day Care Plan.

Effective October 1, 1990 agencies will complete and have in place an annual local child day care plan. This plan is a management tool to enhance the delivery of child day care services and may be modified throughout the year.

#### A. Community Coordination

Local departments shall coordinate child day care services with existing child day care resource and referral agencies, early childhood education programs, schools, private for-profit and non-profit child day care providers, and other groups in the community involved in child day care. This will be done in order to ensure understanding of the department's program to enhance parental choice and to maximize coordination of child day care services in the community.

#### B. Administrative Support Agreement

Local agencies may contract with other local governmental or non-profit agencies for the management of certain child day care services. However, federal regulations prohibit local social service agencies from contracting with other agencies for the administration of child day care services for families funded out of IV-A funds (AFDC, ESP/JOBS, and transitional services). Administration is defined as activities such as processing applications, determining/redetermining eligibility, providing hearing, and imposing sanctions.

The department must give prior approval to any such contract. The contractor and the local agency shall be required to meet all department policy and reporting requirements.



# Emergency Regulations

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## § 5.2. Local Recruitment/Approval/Training Of Providers.

*It is the responsibility of the service worker, using state approved standards, to recruit, approve, and provide training for locally approved child day care providers. Family day care providers shall be informed of the benefits of participating in the USDA Food Program.*

*If a family or in-home provider is selected and is not local agency approved and desires to be, the provider shall be informed as to how to apply to become local agency approved. Emergency approvals may be granted in certain situations where time does not allow the completion of the full day care approval before care starts.*

## § 5.3. Service Delivery.

*The service worker shall inform the parents and providers that he/she is available on an on-going basis to assist with problem solving. A direct contact shall be made at least quarterly with a member of the case household. The service worker shall evaluate, at least quarterly, whether the child day care services authorized are meeting the needs of the child and parent. In some cases, other services will be needed by the family and will be provided directly or arranged for by the service worker.*

*Agency termination of child day care services shall be planned jointly with the parent and provider, and arrangements made for other services if needed by the family.*

*Adequate documentation supporting the reasons for termination shall be filed in the case record. If the locality proposed to deny, discontinue, terminate or reduce child day care benefits, written notice must be given to the parent. If the parent disputes this decision, they are entitled to a fair hearing.*

*Agencies shall assure that case records are maintained accurately in accordance with all case management policy in department manuals.*

## Article 6.

### Complaints in the Day Care Setting.

## § 6.1. Child Abuse or Neglect.

*All complaints regarding possible child abuse or neglect occurring in a child day care setting must be referred to the child protective services unit at the local agency serving the area where the day care service is located. Information regarding the complaint shall be shared with the worker responsible for licensure or approval.*

## § 6.2. Other complaints.

*All other complaints shall be referred to the unit which approved the resource.*

/s/ Larry D. Jackson  
Commissioner  
Date: August 27, 1990

/s/ Lawrence Douglas Wilder  
Governor  
Date: October 4, 1990

/s/ Joan W. Smith  
Registrar of Regulations  
Date: October 9, 1990

# STATE CORPORATION COMMISSION

## STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 2, 1990

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS900288

Ex Parte: In the matter of adopting  
Rules Governing Minimum Standards for  
Medicare Supplement Policies

### ORDER ADOPTING REGULATION

WHEREAS, pursuant to an order entered herein September 12, 1990, the Commission conducted a hearing on September 25, 1990, for the express purpose of hearing the Virginia Association of Life Underwriters ("VALU") objection to Section 13 of the regulation proposed by the Bureau of Insurance entitled "Rules Governing Minimum Standards for Medicare Supplement Policies";

WHEREAS, VALU appeared at the aforesaid hearing represented by counsel and objected to the inclusion of Section 13 in the regulation on three grounds: (i) that the regulation attacked the concept of free enterprise; (ii) that the regulation results in a less informed consumer; and (iii) that sufficient protections exist or are proposed so that arbitrary commission restrictions are not necessary;

WHEREAS, the Bureau of Insurance appeared represented by counsel and argued that the amendments to the regulation proposed by the Bureau are necessary to bring the regulation into compliance with federal requirements under the Medicare Catastrophic Coverage Repeal Act, and that failure to adopt the regulation would subject medicare supplement policies approved by the Bureau to loss of certification by the Secretary of Health and Human Services and would subject Virginia to the Federal Voluntary Certification Program; and

THE COMMISSION, having considered the record herein and the law applicable hereto, is of the opinion and finds that the regulation proposed by the Bureau of Insurance should be adopted;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Governing Minimum Standards for Medicare Supplement Policies," which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective December 1, 1990.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to John W. Thomas, Jr., President, Virginia Association of Life Underwriters, 2807 Parham Road, Suite 306, Richmond, Virginia 23294; William R. Shands, Jr., Sands, Anderson, Marks & Miller, 801 East Main Street, Suite 1400, Richmond, Virginia 23219; and the Bureau of Insurance in care of Deputy Commissioner

Gerald A. Milsky who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order to every insurance company licensed to sell Medicare supplement insurance in the Commonwealth of Virginia.

### RULES GOVERNING MINIMUM STANDARDS FOR MEDICARE SUPPLEMENT POLICIES

#### § 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-3516 through 38.2-3520, 38.2-3600 through 38.2-3609, 38.2-4214, 38.2-4215, and 38.2-514 of the Code of Virginia.

#### § 2. Purpose.

The purpose of this Regulation is to implement §§ 38.2-3516 through 38.2-3520, 38.2-3600 through 38.2-3609, 38.2-4214, and 38.2-4215 of the Code of Virginia with respect to Medicare supplement policies.

This Regulation is designed to:

- (a) provide reasonable standardization and simplification of terms and coverages of Medicare supplement policies;
- (b) facilitate public understanding and comparison;
- (c) eliminate provisions contained in Medicare supplement policies which may be misleading or unreasonably confusing in connection either with the purchase of such coverages or with the settlement of claims; and
- (d) provide for full disclosure in the sale of Medicare supplement coverages.

#### § 3. Effective Date.

A. This Regulation shall be effective on December 1, 1990.

B. No new policy form shall be approved on or after December 1, 1990, unless it complies with this Regulation.

C. No policy form shall be delivered or issued for delivery in this Commonwealth on or after December 1, 1990, unless it complies with this Regulation.

#### § 4. Scope.

This Regulation shall apply to all Medicare supplement policies delivered or issued for delivery in this Commonwealth.

For purposes of this Regulation:

A. A "Medicare supplement policy" (hereinafter referred

# State Corporation Commission

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to as "Medicare supplement policy" or "policy") is an individual or group policy of accident and sickness insurance or an individual or group subscriber contract of health services plans, or a certificate issued under a group policy or group subscriber contract, offered to individuals who are entitled to have payment made under Medicare, which is designed primarily to supplement Medicare by providing benefits for payment of hospital, medical or surgical expenses, or is advertised, marketed or otherwise purported to be a supplement to Medicare. Such term shall not include:

(1) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(2) A policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(a) is composed of individuals all of whom are actively engaged in the same profession, trade or occupation;

(b) has been maintained in good faith for purposes other than obtaining insurance; and

(c) has been in existence for at least two (2) years prior to the date of its initial offering of such policy or plan to its members.

B. "Applicant" means:

(1) in the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits, and

(2) in the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

C. "Certificate" means any certificate issued under a group Medicare supplement policy, which policy has been delivered or issued for delivery in this Commonwealth.

Except as otherwise provided, nothing contained in this Regulation shall be construed to relieve an insurer of complying with the statutory requirements set forth in Title 38.2 of the Code of Virginia.

## § 5. Policy Definitions.

Except as provided hereafter, no Medicare supplement policy delivered or issued for delivery to any person in this Commonwealth shall contain definitions respecting the matters set forth below unless such definitions comply with the requirements of this section.

A. "Benefit Period" shall not be defined as more restrictive than as that defined in the Medicare program.

B. "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

(1) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

(a) be an institution operated pursuant to law;

(b) be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and

(c) provide 24 hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

(2) The definition of the term "hospital" may state that such term shall not include:

(a) convalescent homes, convalescent, rest, nursing facilities;

(b) facilities primarily affording custodial, educational or habilitative care;

(c) facilities for the aged, drug addicts or alcoholics subject to the requirements of § 38.2-3412 of the Code of Virginia;

(d) facilities affording long term care with an average length of stay per patient in excess of thirty (30) calendar days, or

(e) any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

C. "Convalescent Nursing Home," "Extended Care Facility," or "Skilled Nursing Facility" shall be defined in relation to its status, facilities, and available services.

(1) A definition of such home or facility shall not be more restrictive than one requiring that it:

(a) be operated pursuant to law;

(b) be approved for payment of Medicare benefits

or be qualified to receive such approval, if so requested;

(c) be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

(d) provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

(e) maintain a daily medical record of each patient.

(2) The definition of such home or facility may provide that such term shall not include:

(a) any home, facility or part thereof used primarily for rest;

(b) a home or facility for the aged or for the care of drug addicts or alcoholics; or

(c) a home or facility primarily used for the care and treatment of mental diseases, or disorders, or custodial or educational care.

D. "Accident," "Accidental Injury," or "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

The definition shall not be more restrictive than the following: Injury or injuries, for which benefits are provided, means accidental bodily injury sustained by the insured person which are the direct result of an accident, independent of disease or bodily infirmity or any other cause, and which occur while the insurance is in force.

Such definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employers' liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

E. "Sickness" shall not be defined to be more restrictive than the following: Sickness means sickness or disease of an insured person which manifests itself after the effective date of insurance and while the insurance is in force. The definition may be modified to exclude sickness or disease for which benefits are provided under any workers' compensation, occupational disease, employers' liability or similar law.

F. "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician" and shall include providers included in §§ 38.2-3408 and 38.2-4221.

G. "Nurses" may be defined so that the description of

nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse" or "registered nurse" are used without specific description as to type, then the use of such terms requires the insurer to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

H. "Medicare" shall be defined in the policy. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of the Public Laws 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act," as then constituted and any later amendments or substitutes thereof, or words of similar import.

I. "Mental or Nervous Disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind including physiological and psychological dependence on alcohol and drugs subject to § 38.2-3412 of the Code of Virginia.

J. "Non-Cancellable," or "Non-Cancellable and Guaranteed Renewable," as used in a renewability provision, shall not be defined more restrictively than one providing the insured the right to continue the policy in force by the timely payment of premiums as set forth in the policy. While the policy is in force the insurer has no right to make unilaterally any change in any provision of the policy.

K. "Guaranteed Renewable," as used in a renewability provision, shall not be defined more restrictively than one providing the insured the right to continue the policy in force by the timely payment of premiums as set forth in the policy. While the policy is in force the insurer has no right to make unilaterally any change in any provision of the policy except that the insurer may make changes in premium rates by class. Class should be defined by age, sex, occupation, or other broad categories in order to eliminate any possibilities of individual discrimination.

L. "Medical necessity," or words of similar meaning, shall not be defined more restrictively than all services rendered to an insured that are required by his medical condition in accordance with generally accepted principles of good medical practice, which are performed in the least costly setting and not only for the convenience of the patient or his physician.

## § 6. General Policy Requirements.

A. The term "Medicare benefit period" shall mean the unit of time used in the Medicare program to measure the

# State Corporation Commission

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use of services and availability of benefits under Part A, Medicare hospital insurance.

B. The term "Medicare eligible expenses" shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

C. Coverage shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

D. Coverage shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be changed to correspond with such changes, subject to §§ 38.2-3501 and 38.2-3600 through 38.2-3603 of the Code of Virginia and with any rules adopted pursuant thereto.

E. A "noncancellable," "guaranteed renewable," or "non-cancellable and guaranteed renewable" policy shall not: (a) provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium; or (b) be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health. The policy shall provide that in the event of the insured's death, the spouse of the insured, if covered under the policy, shall become the insured.

F. The terms "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" shall not be used without further explanatory language in accordance with the disclosure requirements of Section 13 A(1).

G. Termination of the policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

## § 7. Prohibited Policy Provisions.

A. No policy or rider for additional coverage may be issued as a dividend unless an equivalent cash payment is offered to the policyholder as an alternative to such dividend policy or rider. No such dividend policy or rider shall be issued for an initial term of less than six (6) months. The initial renewal subsequent to the issuance of any policy or rider as a dividend shall clearly disclose that the policyholder is renewing the coverage that was provided as a dividend for the previous term and that such renewal is optional with the policyholder.

B. No policy, regardless of whether such policy is issued on the basis of a detailed application form, a simplified application form or an enrollment form, shall exclude coverage for a loss due to a preexisting condition for a period greater than six (6) months following policy issue. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

C. No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:

(1) preexisting conditions or diseases subject to the requirements of Section 7B;

(2) mental or emotional disorders, alcoholism and drug addiction, subject to § 38.2-3412;

(3) illness, treatment or medical condition arising out of:

(a) war or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary thereto;

(b) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;

(c) aviation;

(4) cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part;

(5) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

(6) care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column;

(7) treatment provided in a government hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employers' liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories, or other institutions; services performed by a member of the covered person's immediate

family and services for which no charge is normally made in the absence of insurance;

(8) dental care or treatment;

(9) eye glasses, hearing aids and examination for the prescription or fitting thereof; physical examinations;

(11) territorial limitations outside the United States;

(12) services or care not medically necessary.

Policies, however, may not contain when issued, limitations or exclusions of the type enumerated in items (5), (6), (10), (11) or (12) above that are more restrictive than those of Medicare. Policies may exclude coverage for any expenses to the extent of any benefit available to the insured under Medicare.

D. Waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions shall not be used.

E. Policy provisions precluded in this section shall not be construed as a limitation on the authority of the Commission to disapprove other policy provisions in accordance with § 38.2-3518.B which, in the opinion of the Commission, are unjust, unfair, or unfairly discriminatory to the policyholder, beneficiary, or any person insured under the policy.

F. No Medicare supplement insurance policy, contract, or certificate in force in the Commonwealth shall contain benefits which duplicate benefits provided by Medicare.

G. Policies shall be written on a guaranteed renewable basis. Except as authorized by the Commission, an insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

H. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subsection J, the insurer shall offer certificateholders an individual Medicare supplement policy. The insurer shall offer the certificateholder at least the following choices:

(1) an individual Medicare supplement policy which provides for continuation of the benefits contained in the group policy; and

(2) an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards.

I. If membership in a group is terminated, the insurer shall:

(1) offer the certificateholder such conversion opportunities as are described in subsection H; or

(2) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

J. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

## § 8. Benefit Conversion Requirements During Transition.

A. Effective January 1, 1990, no Medicare supplement insurance policy, contract or certificate in force in this Commonwealth shall contain benefits which duplicate benefits provided by Medicare.

B. Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

C. For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to Medicare Catastrophic Coverage Act of 1988, the minimum benefit shall be:

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible (\$75);

# State Corporation Commission

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(7) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

## § 9. Medicare Supplement Minimum Benefit Standards.

No policy shall be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy which does not meet the following minimum benefit standards. No policy may be marketed or labeled as a Medicare supplement policy nor may the terms "Medicare supplement," "Medigap" and words of similar import be used unless the policy meets the minimum benefit standards required by this Regulation. These are minimum benefit standards and do not preclude the inclusion of other benefits which are not inconsistent with these standards.

A. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period:

B. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount.

C. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

D. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

E. Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

F. Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible (\$75).

G. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A subject to the Medicare deductible amount. Policies shall be issued on a guaranteed renewable basis.

## § 10. Standards for Claims Payment.

A. Every entity providing Medicare supplement policies or contracts shall comply with all provisions of Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

B. Compliance with the requirements set forth in subsection A above must be certified on the Medicare supplement insurance experience reporting form.

## § 11. Loss Ratio Standards.

Medicare supplement policies shall return to policyholders in the form of aggregate benefits under the policy, for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices:

A. At least 75 percent of the aggregate amount of premiums earned in the case of group policies, and

B. At least 60 percent of the aggregate amount of premiums earned in the case of individual policies. All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this section.

C. Every entity providing Medicare supplement policies in this Commonwealth shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by number of years of policy duration demonstrating that it is in compliance with the foregoing applicable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience. For the purposes of this section as well as Rules Governing the Filing of Rates for Individual and Certain Group Accident and Sickness Policy Forms, a rate filing must be made whenever premiums are changed. Premiums may not be changed to correspond with changes in Medicare coverage without demonstrating that the loss ratio standards in subsections A and B of this section are being met.

D. As soon as practicable, prior to the effective date of Medicare benefit changes, every insurer, health services plan or other entity providing Medicare supplement insurance or contracts in this Commonwealth pursuant to Chapter 36 of Title 38.2 of the Code of Virginia, shall file with the Commission in accordance with the applicable filing procedures of this Commonwealth:

(1) (a) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

(b) Such premium adjustments as are necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer, health services plan or other entity for such Medicare supplement insurance policies or contracts. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(2) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare. Any such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

## § 12. Filing Requirements for Out-of-State Policies.

Every insurer providing group Medicare supplement insurance benefits to a resident of this Commonwealth shall file an informational copy of the master policy and any certificate used in this Commonwealth in accordance with the filing requirements and procedures applicable to group accident and sickness policies issued in this Commonwealth; provided, however, that no insurer shall be required to make a filing earlier than thirty (30) days after insurance was provided to a resident of this Commonwealth under a master policy issued for delivery outside this Commonwealth.

## § 13. Permitted Compensation Arrangements.

A. An insurer or other entity may provide commission or other compensation to an agent or other representative for sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent (200%) of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

B. The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for a reasonable number of renewal years.

C. No insurer or other entity shall provide compensation to its agents and no agent shall receive compensation greater than the renewal compensation payable by the replacing insurer or renewal policies or certificates if an existing policy or certificate is replaced unless benefits of the new policy or certificate are clearly and substantially greater than the benefits under the replaced policy.

D. For purposes of this section, "compensation" includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including but not limited to bonuses, gifts, prizes, awards and finders fees.

## § 14. Required Disclosure Provisions.

### A. General Rules for All Policies:

(1) Each policy shall include a renewal or continuation provision. The language or specifications of such provision must be consistent with the type of contract issued. Such provision shall be appropriately captioned, and shall appear on the first page of the policy.

(2) Except for riders or endorsements by which the insurer fulfills a request made in writing by the policyholder or exercises a specifically reserved right under the policy or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement which increases benefits or coverage with an accompanying increase in premium during the policy term must be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement insurance policies or if the increased benefit or coverage is required by law or regulation.

(3) Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

(4) A policy and the accompanying outline of coverage which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include an explanation of such terms.

(5) If a policy contains any limitations with respect to preexisting conditions such limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(6) If a policy contains a conversion privilege, it shall comply, in substance, with the following:

(a) the caption of the provision shall be "Conversion Privilege," or words of similar import;

(b) the provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the



# State Corporation Commission

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conversion, and the person by whom the conversion privilege may be exercised;

(c) the provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.

(7) Insurers issuing accident and sickness policies, certificates or subscriber contracts, which provide hospital or medical expense coverage on an expense incurred or indemnity basis other than incidentally, to persons eligible for Medicare by reason of age, shall provide a Medicare supplement buyer's guide as required by this section. The buyer's guide will be in the form of the most current pamphlet developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and entitled "Guide to Health Insurance for People with Medicare." Delivery of the buyer's guide shall be made whether or not such policy, certificate, or subscriber contract meets the minimum standards as set forth in this Regulation, or whether or not such policy, certificate or subscriber contract is advertised, solicited or issued as a Medicare supplement policy as defined in this Regulation. Except in the case of direct response insurers, delivery of the buyer's guide shall be made at the time of application and acknowledgement of receipt of certification of delivery of the buyer's guide shall be provided to the insurer. Direct response insurers shall deliver the buyer's guide not later than at the time the policy, certificate or subscriber contract is delivered.

## B. Notice Requirements.

(1) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, every insurer, health services plan or other entity providing Medicare supplement insurance or benefits to a resident of this Commonwealth shall notify its policyholders, contract holders and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts in the format prescribed in the Appendix to this Regulation.

(2) Such notices shall not contain or be accompanied by any solicitation.

## C. Policy Labeling.

Every Medicare supplement policy must be clearly labeled as a Medicare Supplement Policy. The label must appear on the first page of the policy. The label shall be printed in 18-point type of a style in general use.

## D. Notice Regarding Policies or Subscriber Contracts

## Which Are Not Medicare Supplement Policies.

Any accident and sickness insurance policy or subscriber contract other than a Medicare supplement policy or subscriber contract; basic hospital expense policy or subscriber contract; basic medical-surgical expense policy or subscriber contract; major medical expense policy or subscriber contract; disability income protection policy; income replacement policy or subscriber contract, or a policy issued pursuant to a contract under § 1876 of the Federal Social Security Act (42 U.S.C. § 1395 et seq.) or single premium nonrenewable policy or subscriber contract issued for delivery in this state to persons eligible for Medicare by reason of age shall notify covered insureds under the policy or subscriber contract that the policy or subscriber contract is not a Medicare supplement policy. Such notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or subscriber contract; or if no outline of coverage is delivered, to the first page of the policy, certificate or subscriber contract delivered to insureds. Such notice shall be in not less than twelve (12) point type and shall contain the following language:

**"THIS (POLICY, CERTIFICATE OR SUBSCRIBER CONTRACT) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CERTIFICATE). If you are eligible for Medicare review the Medicare Supplement Buyer's Guide available from the company."**

## E. Outline of Coverage Requirements for All Medicare Supplement Policies:

(1) Insurers issuing Medicare supplement policies subject to this Regulation shall deliver an outline of coverage to the applicant at the time application is made and, except for a direct response policy, acknowledgement of receipt or certification of delivery of such outline of coverage shall be provided to the insurer; and

(2) If an outline of coverage was delivered at the time of application and the individual policy or contract is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or contract must accompany such policy or contract when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

## F. Outline of Coverage for All Medicare Supplement Policies:

An outline of coverage shall be issued in substantially the following form as prescribed below: The term "certificate" should be substituted for the word "policy" throughout the outline of coverage where appropriate. The

# State Corporation Commission

items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)

## OUTLINE OF MEDICARE SUPPLEMENT COVERAGE

Use this outline to compare benefits and premiums among policies.

(1) Read your Policy Carefully - This outline of coverage provides a very brief description of the important features of - your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

(2) Medicare Supplement Coverage - Policies of this category are designed to supplement Medicare by covering some hospital, medical, and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine (delete if such coverage is provided).

(3) (a) (for agents:  
Neither (insert company's name) nor its agents are connected with Medicare.

(b) (for direct response:  
(insert company's name) is not connected with Medicare.

(4) (A brief summary of the major benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts, and indexed copayments or deductibles, as appropriate, provided by the Medicare supplement coverage in the following order:)

DESCRIPTION	THIS POLICY PAYS	YOU PAY
<b>I. MINIMUM STANDARDS</b>		
<b>SERVICE</b>		
<b>PART A</b>		
<b>INPATIENT HOSPITAL SERVICES:</b>		
Semi-Private Room and Board		
Miscellaneous Hospital Services and Supplies, such as Drugs, X-Rays, Lab Tests and		

Operating Room

**BLOOD**

**PART B**

**MEDICAL EXPENSE:**

Services of a Physician/  
Outpatient Services

Medical Supplies other  
than Prescribed Drugs

**BLOOD**

**MISCELLANEOUS**

Immunosuppressive Drugs

IN ADDITION TO THIS OUTLINE OF COVERAGE, [INSURANCE COMPANY NAME] WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE

**II. Additional Benefits'**

**Part A**

DESCRIPTION	THIS POLICY PAYS	YOU PAY
Part A Deductible		
Private Rooms		
In-Hospital Private Nurses		
Skilled Nursing Facility Care		

**PARTS A & B**

**PART B**

Part B Deductible		
Home Health Services		
Medical Charges in Excess of Medicare Allowable Expenses (Percentage Paid)		

**OUT-OF-POCKET MAXIMUM**

**PRESCRIPTION DRUGS**

**MISCELLANEOUS**

Respite Care Benefits		
Expenses Incurred in Foreign Country		

Other:

**TOTAL PREMIUM** \$.....

IN ADDITION TO THIS OUTLINE OF COVERAGE, [INSURANCE COMPANY NAME] WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

\*\*If this policy does not provide coverage for a benefit listed above, the insurer must state "no coverage" beside that benefit in the first column.

# State Corporation Commission

(5) The following charts shall accompany the outline of coverage:

APPENDIX A

[COMPANY NAME]

## NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE - 1990

THE FOLLOWING CHART BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	<u>In 1989 Medicare Pays Per Calendar Year</u>	<u>Effective January 1, 1990 Medicare Will Pay</u>	<u>In 1989 Your Coverage Pays</u>	<u>Effective January 1, 1990 Your Coverage Will Pay</u>
<b>MEDICARE PART A SERVICES AND SUPPLIES</b>				
Inpatient Hospital Services	Unlimited number of hospital days after \$560 deductible	All but \$592 for first 60 days/benefit period		
Semi-Private Room & Board		All but \$148 a day for 61st-90th days/benefit period		
Misc. Hospital Services & Supplies, such as drugs, X-Rays, Lab Tests & Operating Room		All but \$296 a day for 91st-150th days (if individual chooses to use 60 nonrenewable Lifetime reserve days)		
<b>BLOOD</b>	Pays all costs except payment of deductible (equal to costs for first 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B	Pays all costs except nonreplacement fees (blood deductible) for first 3 pints in each calendar year		
<b>SKILLED NURSING FACILITY CARE</b>	There is no prior confinement requirement for this benefit	100% of costs for first 20 days (after a 3 day prior hospital confinement)/benefit period		

# State Corporation Commission

(6) Statement that the policy does or does not cover the following:

- (a) Private duty nursing.
- (b) Skilled nursing home care costs (beyond what is covered by Medicare).
- (c) Custodial nursing home care costs.
- (d) Intermediate nursing home care costs.
- (e) Home health care (above number of visits covered by Medicare).
- (f) Physicians charges (above Medicare's reasonable charge).
- (g) Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay).
- (h) Care received outside of U.S.A.
- (i) Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.

(7) A description of any policy provision which excludes, eliminates, resists, reduces, limits, delays, or in any other manner operates to qualify payment of the benefits described in (4) above, including conspicuous statements:

- (a) (That the chart summarizing Medicare benefits only briefly describes such benefits.)
- (b) (That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.)

(8) A description of policy provisions respecting renewability or continuation of coverage, including any reservation of right to change premium.

(9) The amount of premium for this policy.

## § 15. Requirements for Application Forms and Replacement Coverage.

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness insurance presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing such questions may be used.

(1) Do you have another Medicare supplement insurance policy or certificate in force (including health services plan contract, health maintenance organization contract)?

(2) Did you have another Medicare supplement policy or certificate in force during the last twelve (12) months?

(a) If so, with which company?

(b) If that policy lapsed, when did it lapse?

(3) Are you covered by Medicaid?

(4) Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)?

B. Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold which are still in force.

(2) List policies sold in the past five (5) years which are no longer in force.

C. Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent shall furnish the applicant, prior to issuance or delivery of the policy, the notice described in D below. An insurer may satisfy this requirement by printing the required replacement notice on the application. One (1) copy of such notice or section of the application containing such notice signed by the applicant and the agent, except where the coverage is sold without an agent shall be retained by the applicant and an additional signed copy shall be retained by the insurer. A direct response insurer shall deliver to the applicant upon issuance of the policy, the notice described in E below.

D. The notice required by C above for an insurer, other than a direct response insurer, shall provide, in substantially the following form:

### NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO  
YOU IN THE FUTURE

According to your application, you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with a policy to be issued by (insert Company Name). Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

# State Corporation Commission

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You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT (OR OTHER REPRESENTATIVE): (Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(1) Health conditions which you may presently have, (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate, may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, re-read it carefully to be certain that all information has been properly recorded.

.....  
Signature of Agent, or Other Representative

.....  
Typed Name and Address of Agent

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

E. The notice required by (C) above for a direct response insurer shall be as follows:

## NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

According to your application, you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with the policy delivered herewith issued by (insert Company Name). Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

(1) Health conditions which you may presently have, (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provide that your replacement policy or certificate, may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time as spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check

# State Corporation Commission

the application and write to (insert Company Name and Address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

## § 16. Filing Requirements for Advertising.

Every insurer, health services plan or health maintenance organization providing Medicare supplement insurance or benefits in this Commonwealth shall file with the Commission a copy of any Medicare supplement advertisement intended for use in this Commonwealth whether through written, radio or television medium.

## § 17. Standards for Marketing.

A. Every insurer, health services plan or other entity marketing Medicare supplement insurance coverage in this Commonwealth, directly or through its producers, shall:

(1) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

(2) Establish marketing procedures to assure excessive insurance is not sold or issued.

(3) Establish marketing procedures which set forth a mechanism or formula for determining whether a replacement policy or certificate contains benefits clearly and substantially greater than the benefits under the replaced policy for purposes of triggering first year commissions as authorized in § 13 of this regulation.

(4) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy may not cover all of the costs associated with medical care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(5) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

(6) Every insurer, health services plan or entity marketing Medicare supplement insurance shall establish auditable procedures for verifying compliance with this Subsection A.

B. In addition to the practices prohibited in Chapter 5 of Title 38.2 (§§ 38.2-500 et seq.), the following acts and practices are prohibited.

(1) Twisting. Knowingly making any misleading

representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, freight, threat whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and the contact will be made by an insurance agent or insurance company.

## § 18. Appropriateness of Recommended Purchase and Excessive Insurance.

A. In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

B. Any sale of Medicare supplement coverage which will provide an individual more than one Medicare supplement policy or certificate is prohibited; provided, however, that additional Medicare supplement coverage may be sold if, when combined with that individual's health coverage already in force, it would insure not more than 100% of the individual's actual medical expenses covered under the combined policies.

## § 19. Reporting to Multiple Policies.

A. On or before March 1, every insurer, health services plan or other entity providing Medicare supplement insurance coverage in this Commonwealth shall report the following information for every individual resident of this Commonwealth for which the insurer, health services plan or entity has in force more than one Medicare supplement insurance policy or certificate:

(1) Policy and certificate number, and

(2) Date of issuance.

B. The items set forth above must be grouped by individual policyholder.

## § 20. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates.

If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing insurer shall waive any time periods applicable

# State Corporation Commission

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to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy for similar benefits to the extent such time was spent under the original policy.

## § 21. Severability.

If any provision of this Regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Regulation and the application of such provisions to other persons or circumstances shall not be affected thereby.

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: VR 240-02-02. Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchase.

#### Governor's Comment:

I concur with the substance of these regulations and recommend approval.

/s/ Lawrence Douglas Wilder  
Governor  
Date: October 5, 1990

### DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-01-74. Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees.

#### Governor's Comment:

These regulations respond to amendments to § 54.1-507 of the Code of Virginia relating to nonresidential asbestos abatement. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: October 12, 1990

### BOARD OF VETERINARY MEDICINE

Title of Regulation: VR 645-01-1. Regulations Governing the Practice of Veterinary Medicine.

#### Governor's Comment:

I concur with the form and content of this proposal.

/s/ Lawrence Douglas Wilder  
Governor  
Date: October 5, 1990

### VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-03-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Racing Officials.

#### Governor's Comment:

These regulations are intended to establish high standards for racing officials in order to maintain principled racing practices in Virginia. Pending public

comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: September 30, 1990

### STATE WATER CONTROL BOARD

Title of Regulation: VR 680-15-01. Water Withdrawal Reporting.

#### Governor's Comment:

These regulations are intended to allow for the collection of data needed to plan for and manage Virginia's water supply. Pending public comment, I recommend approval of these regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: August 27, 1990



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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## BOARD FOR ACCOUNTANCY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider amending regulations entitled: **VR 105-01-02. Board for Accountancy Regulations.** The purpose of the proposed action is to initiate a review process to consider adjusting fees charged by the board.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Written comments may be submitted until November 8, 1990.

**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 FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider amending regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to amend regulations to implement the statutes dealing with the certification of interior designers which went into effect July 1, 1990, and to adjust fees for all professions.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until November 21, 1990.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016.

## DEPARTMENT OF COMMERCE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **VR 190-01-1. Rules and Regulations Governing Employment Agencies.** The purpose of the proposed action is to solicit public comment regarding adjustments to its fee structure and to bring its application in line with these adjustments.

Statutory Authority: § 54.1-1302 of the Code of Virginia.

Written comments may be submitted until November 8, 1990.

**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 FOR GEOLOGY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Geology intends to consider amending regulations entitled: **VR 335-01-2. Rules and Regulations of the Board for Geology.** The purpose of the proposed action is to review fees.

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

Written comments may be submitted until November 8, 1990.

**Contact:** Nelle P. Hotchkiss, Acting Assistant Director, Asbestos Licensing Program, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8597.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-34-01. Private Well Regulations.** The purpose of the proposed action is to amend the Private Well Regulations which establish a permitting process for the construction and location of all private drilled wells.

Statutory Authority: §§ 32.1-176.1 through 32.1-176.7 of the

Code of Virginia.

Written comments may be submitted until November 8, 1990.

**Contact:** Donald J. Alexander, Director, Bureau of Sewage and Water Services, Madison Building, 109 Governor St., Suite 500, Richmond, VA 23219, telephone (804) 786-1750.

## BOARD FOR HEARING AID SPECIALISTS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Hearing Aid Specialists intends to consider amending regulations entitled: **VR 375-01-02. Board for Hearing Aid Specialists.** The purpose of the proposed action is to solicit public comment regarding adjustments to its fee structure and to bring its application in line with these adjustments.

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

Written comments may be submitted until November 8, 1990.

**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.

## VIRGINIA STATE LIBRARY AND ARCHIVES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.1 Standards for the Microfilming of Public Records for Archival Retention.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

**Contact:** Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.2. Archival Standards for Recording Deeds and other Writings by a Procedural**

**Microphotographic Process.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

**Contact:** Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-134.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases the Clerks of the Circuit Courts prior to Disposition.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

**Contact:** Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

**Contact:** Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State

## General Notices/Errata

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Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.6. Standards for Plats.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

**Contact:** Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.7. Standards for Recorded Instruments.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

**Contact:** Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-02-01. 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 grants-in-aid.

Statutory Authority: § 42.1-52 of the Code of Virginia.

Written comments may be submitted until November 26, 1990.

**Contact:** Anthony Yankus, Director of Public Library Development, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219-3491, telephone (804) 786-2320.

## STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Board intends to consider amending regulations entitled: **VR 447-01-2. Administration Regulations.** The purpose of the proposed action is to clarify department procurement regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until January 23, 1991.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Board intends to consider amending regulations entitled: **VR 447-02-1. Instant Game Regulations.** The purpose of the proposed action is to clarify standards for licensing; authorize issuance of lottery retailer license on a perpetual basis subject to an annual determination of continued retailer eligibility and the payment of an annual fee fixed by the board.

Other Pertinent Information: Section 1.7 was adopted on an emergency basis on May 14, 1990.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until January 23, 1991.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Board intends to consider amending regulations entitled: **VR 447-02-2. On-Line Game Regulations.** The purpose of the proposed action is to authorize issuance of lottery retailer license on a perpetual basis subject to an annual determination of continued retailer eligibility and the payment of an annual fee fixed by the board. For free on-line tickets only, reduce the prize redemption period from 180 days to 60 days. Provide for additional game features.

Other Pertinent Information: Section 2.7 was adopted on an emergency basis on May 14, 1990; § 3.7 was adopted on September 18, 1990.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until January 23, 1991.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

## BOARD OF MEDICINE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.** The purpose of the proposed action is to amend the regulations for compliance with § 54.1-2962 of the Code of Virginia, relating to solicitation or receipt of remuneration in exchange for referral prohibited.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 9, 1990, to the Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

## 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 480-01-1. Public Participation Guidelines for the Formation and Promulgation of Regulations by the Virginia Department of Mines, Minerals and Energy.** The purpose of the proposed action is to allow participation by the public in the formulation of regulations that are written to carry out the legislative mandates of the department and its associated boards and commissions.

The department is considering amendments to comply with changes in the Virginia Administrative Process Act.

Statutory Authority: § 45.1-230 of the Code of Virginia.

Written comments may be submitted until November 20, 1991.

**Contact:** Bill Edwards, Policy Analyst, Department of Mines, Minerals, and Energy, 2001 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330 or toll-free 1-800-552-3831/TDD ☎

## Virginia Gas and Oil Board

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Gas and Oil Board intends to consider promulgating regulations entitled: **VR 480-05-22.2. Virginia Gas and Oil Board Regulations.** The purpose of the proposed action is to establish requirements addressing field rules, drilling units and forced pooling, and to govern administrative matters such as application fees and petitions.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Written comments may be submitted until November 20, 1990.

**Contact:** B. Thomas Fulmer, Gas and Oil Inspector, Division of Gas and Oil, P.O. Box 1416, 239 Charwood Drive, Abingdon, VA 24210, telephone (804) 628-8115, 676-5501 or toll-free 1-800-552-3831.

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Professional Soil Scientists intends to consider amending regulations entitled: **VR 627-02-1. Board for Professional Soil Scientists Regulations.** The purpose of the proposed action is to review fees.

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

Written comments may be submitted until November 8, 1990, to Assistant Director, Board for Professional Soil Scientists, Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

**Contact:** Nelle P. Hotchkiss, Acting Assistant Director, Asbestos Licensing Program, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

# General Notices/Errata

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## REAL ESTATE BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider amending regulations entitled: **VR 585-01-1. Real Estate Board Regulations**. The purpose of the proposed action is to amend license fees.

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

Written comments may be submitted until November 8, 1990.

**Contact:** Joan L. White, Assistant Director, Department of Commerce, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552 or toll-free 1-800-552-3016.

## 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 intends to consider promulgating regulations entitled: **VR 662-05-01. Conduct of Flat Racing**. The purpose of the proposed action is to establish conditions under which horses, ridden by jockeys over flat surfaces, shall race.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

**Contact:** William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-05-02. Conduct of Standardbred Racing**. The purpose of the proposed action is to establish the specialized conditions under which trotting and pacing horses, hitched to sulkies, shall be driven in races.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

**Contact:** William H. Anderson, Senior Policy Analyst,

Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-05-03. Conduct of Steeplechase Racing**. The purpose of the proposed action is to establish the specialized conditions under which horses, ridden by jockeys and racing over fences, shall be conducted.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

**Contact:** William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-05-04. Conduct of Quarter Horse Racing**. The purpose of the proposed action is to establish the specialized conditions under which Quarter Horses, ridden by jockeys, shall be raced.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

**Contact:** William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-30-01. Regulations Governing the Transportation of Hazardous Materials**. The purpose of the proposed action is to incorporate by reference changes that were made by U.S. DOT to Title 49 Code of Federal Regulations from July 1, 1989, to June 30, 1990.

Statutory Authority: §§ 10.1-1402(11) and 10.1-1450 of the

Code of Virginia.

Written comments may be submitted until November 7, 1990, to Mr. William F. Gilley, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

**Contact:** C. Ronald Smith, Hazardous Waste Enforcement Chief, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075.

## 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 promulgating regulations entitled: **VR 680-14-07. Oil Discharge Contingency Plans and Financial Responsibility Requirements.** The purpose of the proposed action is to (i) establish the standards, content and requirements of oil discharge contingency plans and plan application; (ii) establish the requirements for maintaining evidence of financial responsibility; (iii) establish a fee for the approval of the required oil discharge contingency plans; and (iv) establish a fee for the approval of the tank vessel evidence of financial responsibility.

Section 62.1-44.34:15 requires operators to have oil discharge contingency plans for tank vessels, with a capacity of 15,000 or more gallons, transporting or transferring oil in state waters; and for facilities, with a storage or handling capacity of 25,000 or more gallons of oil, operating in the Commonwealth. Section 62.1-44.34:16 requires the operator of a tank vessel to deposit, with the board, cash or its equivalent in the amount of \$500 per gross ton. Various means will be allowed to provide the required evidence of financial responsibility. One type of information that would assist the board as it develops these regulations would be to identify those vessels and facilities affected by these regulations.

These regulations will impact all tank vessels, as defined in § 62.1-44.34:14, with a capacity of greater than or equal to 15,000 gallons of oil and those facilities that handle or store oil with a capacity greater than or equal to 25,000 gallons. The financial impact of this section includes costs associated with the development of the oil discharge contingency plans and obtaining financial responsibility mechanisms, as well as the fee authorized by the board for approval of this plan and the fee to be charged for approval of the evidence of financial responsibility required for tank vessels.

The board will hold two public meetings to receive views and comments (see Calendar of Events Section).

Applicable laws and regulations include the State Water Control law, § 62.1-44.2 et seq. of the Code of Virginia and

the Federal Oil Pollution Act of 1990 (Public Law No. 101-380).

Statutory Authority: §§ 62.1-44.34:15(10), 62.1-44.34:15 and 62.1-44.34:16 of the Code of Virginia.

Written comments may be submitted until December 21, 1990.

**Contact:** David Ormes, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-9704.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider amending regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators.** The purpose of the proposed action is to initiate a review process to consider adjusting fees charged by the board.

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

Written comments may be submitted until November 22, 1990.

**Contact:** Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534 or toll-free 1-800-552-3016.

## GENERAL NOTICES

### DEPARTMENT OF LABOR AND INDUSTRY

#### † Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the Federal level. Therefore, the Virginia Department of Labor and Industry is issuing the following notice:

DEPARTMENT OF LABOR

## General Notices/Errata

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Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

(Docket No. H-033-e)

RIN 1218-AB25

Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of proposed rulemaking; extension of time to submit comments and notices of intention to appear at hearing; rescheduling of informal hearing; clarification regarding submission of Advisory Committee on Construction Safety and Health.

SUMMARY: On July 20, 1990, the Occupational Safety and Health Administration (OSHA) published a notice of proposed rulemaking (NPRM) on Asbestos (55 FR 29712). Today's notice extends the period for the submission of public comments and for the submission of notices of intention to appear at an informal hearing on the NPRM from September 25, 1990, until December 3, 1990. It also reschedules the beginning of the informal hearing from October 23, 1990, to January 23, 1991. These changes are intended to allow interested parties additional opportunity to participate more fully in this rulemaking.

In addition, this notice clarifies that the report of the Advisory Committee on Construction Safety and Health (Exhibit 1-126) discussed in the July 20 NPRM was drafted by the labor representatives on the Committee and was submitted by the entire Committee on OSHA for consideration in this rulemaking.

DATES: Written comments concerning the proposal and notices of intention to appear at the public hearing must be postmarked on or before December 3, 1990. Parties requesting more than 10 minutes for their presentation at the hearing, and parties planning to present documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence not later than December 3, 1990. The hearing will take place in Washington, DC, and will begin at 9:30 a.m. on January 23, 1991.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Officer, Docket H-033e, Occupational Safety and Health Administration, 200 Constitution Avenue NW., room N2625, Washington, DC 20210; telephone (202) 523-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241-0064.

Notices of intention to appear at the hearing, testimony,

and documentary evidence should be submitted in quadruplicate to Mr. Tom Hall, Division of Consumer Affairs, Docket H-033e, Occupational Safety and Health Administration, 200 Constitution Avenue NW., room N3647, Washington, DC 20210; telephone (202) 523-8615.

The informal public hearing will begin at 9:30 a.m. on January 23, 1991, at the following location: Auditorium, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW., Washington DC 20210.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N3649, 200 Constitution Avenue NW., room N3649, Washington, DC 20210.

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### † Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the Federal level. Therefore, the Virginia Department of Labor and Industry is issuing the following notice:

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

(Docket No. H-033-d)

RIN 1218-AB25

Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Proposed rule; re-opening of the rulemaking record and reconvening of public hearing.

SUMMARY: The Occupational Safety and Health Administration (OSHA) announced the re-opening of the rulemaking record on non-asbestiform tremolite, anthophyllite and actinolite to allow for the submission of comments and analyses on a recent document submitted to the Agency by the American Thoracic Society (ATS). OSHA is also re-convening the informal public hearing for one day to provide an opportunity for testimony to be presented by the ATS.

## General Notices/Errata

**DATES:** Comments and analyses relevant to issues raised in the ATS final report were to be postmarked on or before October 31, 1990. The one day hearing will begin at 9 a.m. on November 9, 1990.

**ADDRESSES:** All written materials received will be available for inspection and copying in the Docket Office, Room N2625, 200 Constitution Avenue, NW., Washington, DC 20210; between the hours of 8:15 a.m. and 4:45 p.m.

The informal public hearing will begin at 9 a.m. on November 9, 1990, at the following location: Auditorium, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW., Washington DC 20210.

**FOR FURTHER INFORMATION CONTACT:** James F. Foster, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N3649, 200 Constitution Avenue NW., Washington, DC 20210.

### 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

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

**Title of Regulation:** VR 240-02-02. Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchase.

**Publication:** 6:25 VA.R. 4099-4106 September 10, 1990.

#### Correction to the Final Regulation:

Page 4106, subsection D, subdivisions 1 and 2 should read:

1. That records, VFTR's and other materials, except for the maintenance of the log as outlined above, on purchasers found to be eligible to possess or transport firearms (approved) are being routinely destroyed 30 days from the notification, mailing or delivery date of the accepted request for a record check; and
2. That VFTR's and other materials gathered on persons found to be ineligible to purchase a firearm (disapproved) are governed by the regulations for criminal history record information; and



# 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

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

**Title of Regulations:** VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law.

**NOTICE:** The Board of Agriculture and Consumer Services has decided to hold the record open until 5 p.m., January 22, 1991, on the referenced proposed regulation published July 16, 1990, for the purpose of receiving further public comment. See General Notices in 7:2 VA.R. 321-322 October 22, 1990, for details.

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**December 6, 1990 - 2 p.m. - Public Hearing**  
1100 Bank Street, Room 204, Washington Building,  
Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-06-01. Rules Governing the Solicitation of Contributions.** The proposed amendments to the regulation are for the purpose of bringing the regulation into conformity with amendments in the statute; to define certain terms contained in the statute regarding exemption from annual registration; to specify, pursuant to § 57-55.2(i) of the Code of Virginia, the name or names by which

a professional solicitor may identify himself and his employer; to standardize documentation required for filing with the Commissioner of the Department of Agriculture and Consumer Services; to establish procedures for compliance with the statute; to consider other measures to enforce laws governing the solicitation of contributions in Virginia (§ 57-48 et seq. of the Code of Virginia), hereinafter referred to as the "Virginia Solicitation of Contributions Law"; and to assure uniform regulation of charitable solicitations throughout the Commonwealth.

## PLEASE NOTE:

"The statement of basis, purpose, substance, issues, and impact on proposed regulation VR 115-06-01, Rules Governing the Solicitation of Contributions, published on August 27, 1990, in the Virginia Register (pp. 4045-4047 (Volume 6, issue 24)), states as one of the proposed regulation's purposes the establishment of certain evidence deemed adequate to lift a suspension of registration. This is not one of the purposes of the proposed regulation, and the proposed regulation does not address this matter."

Statutory Authority: § 57-66 of the Code of Virginia.

## NOTE: CORRECTION IN WRITTEN COMMENT DATE.

Written comments may be submitted until November 12, 1990.

**Contact:** Jo Freeman, Chair, Revisions Committee, Virginia Department of Agriculture and Consumer Services, Division of Consumer Affairs, P.O. Box 1163, Richmond, VA 23209 or 1100 Bank Street, Room 204, Richmond, VA 23219, telephone (804) 786-1343 or toll-free 1-800-552-9963.

## Virginia Pesticide Control Board

**November 12, 1990 - 6:00 p.m. - Open Meeting**  
**November 13, 1990 - 7:30 a.m. - Open Meeting**  
Radisson Hotel Wilmington, 700 King Street, Customs House Plaza, Wilmington, Delaware. ☒

November 12, 1990 - Dinner at Radisson Hotel Wilmington.

November 13, 1990 - Depart Radisson Hotel Wilmington for tour of DuPont's Research Facilities, Wilmington, DE. 1:00 p.m. Return to Radisson Hotel and begin Pesticide Control Board Committee Meetings.

# Calendar of Events

**November 14, 1990 - 10 a.m. - Open Meeting**  
Northern Virginia Community College, Brault Building, 4001  
Wakefield Chapel Road, Annandale, Virginia. ☒

The Pesticide Control Board will conduct a general business meeting. The public will have an opportunity to comment on any matter not on the Pesticide Control Board's agenda at 10 a.m., November 14, 1990.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 403, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-6558.

## ALCOHOLIC BEVERAGE CONTROL BOARD

**November 14, 1990 - 9:30 a.m. - Open Meeting**  
**November 28, 1990 - 9:30 a.m. - Open Meeting**  
**December 10, 1990 - 9:30 a.m. - Open Meeting**  
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

**Contact:** Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

## ALCOHOL SAFETY ACTION PROGRAM - ROCKBRIDGE

† **November 8, 1990 - 3 p.m. - Open Meeting**  
2044 Sycamore Avenue, Buena Vista, Virginia. ☒

A meeting to consider (i) approval of minutes-June 19, 1990, (ii) old business, (iii) new business, and (iv) treasurer's report.

**Contact:** S. Diane Clark, Director, 2044 Sycamore Avenue, Buena Vista, VA 24416, telephone (703) 261-6281.

## BOARD FOR ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS

**November 29, 1990 - 9 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

A meeting to (i) approve minutes of October 3, 1990, meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016.

## Board for Architects

**November 8, 1990 - 9:30 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

A meeting to (i) approve minutes of August 23, 1990; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016.

## Board for Land Surveyors

**November 16, 1990 - 9 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

A meeting to (i) approve minutes from September 14, 1990, meeting; (ii) review enforcement files; (iii) review correspondence; and (iv) review applications.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016.

## Board for Professional Engineers

**November 14, 1990 - 9 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

A meeting to (i) approve minutes from August 9, 1990, meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016.

## VIRGINIA COMMISSION FOR THE ARTS

† **November 28, 1990 - 9 a.m. - Open Meeting**  
Berkeley Hotel, 12th and Cary Streets, Richmond, Virginia.  
☒

A quarterly meeting (Grant Round).

**Contact:** Commission for the Arts, James Monroe Bldg., 17th Floor, 101 N. 14th St., Richmond, VA 23219-3683, telephone (804) 225-3132.

## ATHLETIC BOARD

**NOTE: CHANGE IN DATE AND LOCATION**  
**November 30, 1990 - 10 a.m. - Open Meeting**  
3600 West Broad Street, Room 580, Richmond, Virginia. ☒

# Calendar of Events

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A meeting to discuss rules and regulations.

**Contact:** Doug Beavers, Assistant Director, 3600 W. Broad St., Room 580, Richmond, VA 23230, telephone (804) 367-8507.

## BOARD FOR BARBERS

† **November 12, 1990 - 9 a.m.** – Open Meeting  
3600 W. Broad St., Richmond, Virginia. ☒

A meeting to (i) develop barber examination; (ii) conduct regulatory review to adopt proposed regulations; and (iii) conduct routine board business.

**Contact:** Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

## BOARD FOR BRANCH PILOTS

**November 13, 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 for Branch Pilots intends to amend regulations entitled: **VR 535-01-2. Branch Pilot Regulations**. The proposed amendment is to maintain standards for initial licensure, renewal of license, and conduct of licensed branch pilots in the Commonwealth.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Written comments may be submitted until November 13, 1990.

**Contact:** Florence R. Brassier, Deputy Director for Regulatory Programs, Virginia Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2194.

## CHESAPEAKE BAY COMMISSION

† **November 15, 1990 - 1 p.m.** – Open Meeting  
† **November 16, 1990 - 8:30 a.m.** – Open Meeting  
Holiday Inn of Solomons, Route 2-4, Solomons, Maryland.

A quarterly meeting of the Chesapeake Bay Commission. Agenda items include pesticides, wetland mitigation, the beneficial uses of dredged materials.

**Contact:** Ann Pesiri Swanson, 60 West Street, Suite 200, Annapolis, MD 21401, telephone (301) 263-3420.

## CHESAPEAKE BAY PUBLIC ACCESS INFORMATION MEETING

† **November 14, 1990 - 1 p.m. and 7 p.m.** – Open Meeting  
Varina Branch Library, 2001 Library Road, Richmond, Virginia.

A meeting to receive public comments related to Virginia's portion of the Chesapeake Bay Access Plan as required by the 1987 Chesapeake Bay Agreement.

**Contact:** Derral Jones, Environmental Programs Manager, Department of Conservation and Recreation, 203 Governor Street, Suite 326, Richmond, Virginia, telephone (804) 786-9042 or (804) 786-2121/TDD ☎

## CHILD DAY-CARE COUNCIL

† **November 8, 1990 - 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 upon request)

A meeting to discuss issues, concerns, and programs that impact licensed child care centers.

**Contact:** Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia, telephone (804) 662-9217.

## DEPARTMENT FOR CHILDREN

### State-Level Runaway Youth Services Network

† **December 6, 1990 - 10:30 a.m.** – Open Meeting  
Department of Corrections, 6900 Atmore Drive, Rooms 2103-2104, Richmond, Virginia. ☒

A general meeting open to the public.

**Contact:** Dr. Joseph McGreal, Deputy Director, Virginia Department for Children, 805 East Broad Street, 11th Floor, Richmond VA 23219, telephone (804) 786-5990.

## BOARD OF COMMERCE

**January 10, 1991 - 1 p.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

This meeting is scheduled to coincide with convening of the General Assembly short session. Members will meet in the morning with legislators; the afternoon meeting will address legislation expected to have an impact upon the department.

**Contact:** Alvin D. Whitley, Staff Assistant to the Board of Commerce, Department of Commerce, 3600 W. Broad St., Fifth Floor, Richmond, VA 23230, telephone (804) 367-8564, SCATS 367-8519 or toll-free 1-800-552-3016.

## STATE BOARD FOR COMMUNITY COLLEGES

**November 7, 1990 - Time to be determined. - Open Meeting**  
Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

Committee meetings.

**November 8, 1990 - 10 a.m. - Open Meeting**  
Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

A regularly scheduled meeting. (Agenda available by November 1, 1990).

**November 8, 1990 - Time to be determined. - Open Meeting**  
Board Room, 15th Floor, Monroe Building, 101 North Street, Richmond, Virginia.

Committee meetings. The state board meeting will convene in the board room following the committee meetings. (Agenda will be available by November 1, 1990.)

**Contact:** Joy Graham, Monroe Building, 101 N. 14th Street Richmond, VA 23230, telephone (804) 225-2126.

## COMPENSATION BOARD

† **November 29, 1990 - 5 p.m. - Open Meeting**  
† **December 20, 1990 - 5 p.m. - Open Meeting**  
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A routine business meeting.

**Contact:** Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886 or (804) 786-3886/TDD ☎

## DEPARTMENT OF CONSERVATION AND RECREATION

### Catoctin Creek Scenic River Advisory Board

† **November 30, 1990 - 2 p.m. - Open Meeting**  
Waterford, Virginia.

Review of river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Programs

Manager, Department of Conservation and Recreation, 203 Governor Street, Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or 786-2121/TDD ☎

### Falls of the James Scenic River Advisory Board

† **December 21, 1990 - noon - Open Meeting**  
Planning Commission Conference Room, 5th Floor, City Hall, Richmond, Virginia.

Review of river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Programs Manager, Department of Conservation and Recreation, 203 Governor Street, Suite 326, Richmond, VA 23209, telephone (804) 786-4132 or 786-2121/TDD ☎

### Recreation in the Juvenile Justice System Advisory Board

† **November 14, 1990 - 1 p.m. - Open Meeting**  
North Anna Visitor Center, Louisa County, Virginia.

A business meeting to determine second year objectives for the project.

**Contact:** Patricia S. Helms, Recreation Specialist, Department of Conservation and Recreation, 203 Governor Street, Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or 786-2121/TDD ☎

## BOARD OF CORRECTIONS

**November 14, 1990 - 10 a.m. - Open Meeting**  
**December 12, 1990 - 10 a.m. - Open Meeting**  
Board of Corrections Board Room, 6900 Atmore Drive, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented.

**Contact:** Ms. Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

## BOARD OF DENTISTRY

**November 7, 1990 - Extended written comment period**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled: VR 255-01-01. **Virginia Board of Dentistry Regulations.** The board voted on September 16, 1990 to extend the comment period for an additional 30 days from October 8 through November 7, 1990. Specifically, the board wishes to allow the public additional time to comment on only (i) the licensure by endorsement for dentists

# Calendar of Events

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and dental hygienists, and (ii) the application fees for endorsement candidates. The proposals are found in §§ 1.4 L and 2.3 of the proposed regulation, which was published in Volume 6, Issue 18 (June 4, 1990), pages 2814-2686.

Statutory Authority: § 54.1-2400 and Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 of the Code of Virginia.

Written comments may be submitted until November 7, 1990.

**Contact:** Nancy T. Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906.

## BOARD OF EDUCATION

**November 27, 1990 - 9 a.m. – Open Meeting**  
**November 28, 1990 - 9 a.m. – Open Meeting**  
James Montroe Building, Conference Rooms D and E, 101 North Fourteenth Street, Richmond, Virginia. ☒  
(Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

**Contact:** Margaret Roberts, Executive Director, Board of Education, Department of Education, P.O. Box 6-1, Richmond, VA 23216, telephone (804) 225-2540.

## STATE EDUCATION ASSISTANCE AUTHORITY AND VIRGINIA EDUCATION LOAN AUTHORITY

### Boards of Directors

**November 16, 1990 - 10 a.m. – Open Meeting**  
Virginia Education Loan Authority, Lunchroom, 701 North Fifth Street, Richmond, Virginia. ☒

A board meeting to (i) review fiscal structure, (ii) consider revised budgets, (iii) review audits, and (iv) consider other matters of general business.

**Contact:** Lyn Hammond, Executive Assistant, 701 North Fifth Street, Richmond, VA 23219, telephone (804) 775-4620, SCATS 786-2035 or toll-free 1-800-937-0032.

## GOVERNOR'S COMMISSION ON EDUCATIONAL OPPORTUNITY FOR ALL VIRGINIANS

**NOTE: CHANGE IN MEETING LOCATION**  
**December 5, 1990 - 9:30 a.m. – Open Meeting**  
Monroe Building, Conference Rooms D & E, 1st Floor, Richmond, Virginia. ☒

A full commission meeting.

**Contact:** Kris Ragan, Staff, P.O. Box 1422, Ninth Street Office Bldg., Room 329, Richmond, VA 23211, telephone (804) 786-1688.

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

**December 6, 1990 - 5:30 p.m. – Open Meeting**  
Chesterfield County Administration Building, 10,001 Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

**Contact:** Lynda G. Furr, Assistant Emergency Services Coordination, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

## LOCAL EMERGENCY PLANNING COMMITTEE - GATE CITY

**November 27, 1990 - 1:30 p.m. – Open Meeting**  
County Office Building, 112 Water Street, Gate City, Virginia. ☒

Update of proposed changes to Sara, Title III Annex to Scott County's Emergency Plan.

**Contact:** Barbara Edwards, 112 Water Street, Suite 1, Gate City, VA 24251, telephone (703) 386-6521.

## LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF PORTSMOUTH

**November 14, 1990 - 9 a.m. – Open Meeting**  
Portsmouth General Hospital, 850 Crawford Parkway, Portsmouth, Virginia.

Portsmouth LEPC conducts business as authorized and required by the provisions of SARA Title III "Superfund Amendments and Reauthorization Act of 1986," also referred to as Title III - Emergency Planning and Community Right-to-Know Act of 1986."

**Contact:** Don Brown, LEPC Coordinator Director, EOC, 801 Crawford St., Portsmouth, VA 23705, telephone (804) 393-8551.

## LOCAL EMERGENCY PLANNING COMMITTEE - RICHMOND

† **November 15, 1990 - 6:30 p.m. – Open Meeting**  
Engine Company No 15, 2614 First Avenue, Richmond, Virginia. ☒

The REPC Committee, will be holding elections, discussing planning, and other recent developments pertaining to the REPC Committee.

Agenda

- 1. Elections
- 2. Coordinators Report

Contact: Thomas E. Price, Captain, Richmond Fire Bureau, 501 North Ninth St., Room 134, Richmond, VA 23219, telephone (804) 780-6660.

**LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY**

† November 21, 1990 - 9 a.m. - Open Meeting  
Salem Civic Center, Room C, 1001 Roanoke Boulevard, Salem, Virginia. ☐

Local emergency preparedness committee meeting as required by SARA Title III.

Contact: Danny W. Hall, Fire Chief Coordinator, Salem Department of Emergency Services, 105 S. Market St., Salem, VA 24153, telephone (703) 375-3080.

**FAMILY AND CHILDREN'S TRUST FUND OF VIRGINIA**

**Board of Trustees**

**NOTE: CHANGE IN MEETING TIME**

November 9, 1990 - 9 a.m. - Open Meeting  
December 7, 1990 - 9 a.m. - Open Meeting  
Koger Executive Center, West End, Blair Building, Conference Room C, 8007 Discovery Drive, Richmond, Virginia. ☐

The board will plan and evaluate its fall fundraising campaign. It will carry out all the activities necessary for implementation of this project.

Contact: Molly Moncure Jennings, Executive Director, Family and Children's Trust Fund, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

† November 5, 1990 - 9 a.m. - Open Meeting  
1601 Rolling Hills Dr., Conference Room 1, Richmond, Virginia. ☐

Exam Certification Meeting - FDE.

\* \* \* \* \*

November 9, 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 Funeral Directors and Embalmers intends to adopt regulations entitled: **VR 320-01-03. Regulations for Preneed Funeral Planning.** The proposed regulations establish standards for the sale of preneed funeral arrangements by licensing of the Board of Funeral Directors and Embalmers in Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-2803(10) of the Code of Virginia.

Written comments may be submitted until November 9, 1990.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9941.

November 27, 1990 - 9 a.m. - Open Meeting  
1601 Rolling Hills Drive, Conference Room 3, Richmond, Virginia. ☐

FDE Informals.

November 28, 1990 - 9 a.m. - Open Meeting  
1601 Rolling Hills Drive, Conference Rooms 3 and 4, Richmond, Virginia. ☐

At 9 a.m. - FDE Examinations given.

At 1 p.m. - FDE Board Meeting.

† December 14, 1990 - 9 a.m. - Open Meeting  
1601 Rolling Hills Drive, Conference Room 3, Richmond, Virginia. ☐

FDE Informals.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907.

**VIRGINIA GAS AND OIL BOARD**

November 20, 1990 - 9 a.m. - Open Meeting  
University of Virginia, Southwest Center, U.S Highway 19, two miles north of Abingdon, Virginia. ☐

The board will receive comments on its intention to consider adoption of regulations to establish requirements addressing field rules, drilling units and forced pooling, and to govern administrative matters such as application fees and the filing of petitions. The board also will consider pending applications for forced pooling, and to establish drilling units and field rules.

# Calendar of Events

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**Contact:** B. Thomas Fulmer, Gas and Oil Inspector, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Drive, Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or toll-free 1-800-552-3831/TDD ☎

## DEPARTMENT OF GENERAL SERVICES

### Division of Forensic Science

† **November 9, 1990 - 10 a.m.** – Open Meeting  
Monroe Building, Conference Room E, 101 North 14th Street, Richmond, Virginia.

The advisory board will discuss issues, concerns, and programs that impact the Division of Forensic Science and its user agencies.

**Contact:** Paul B. Ferrara, Ph.D., Director, 101 North 14th Street, Richmond, VA 23219, telephone (804) 786-2281.

## GEORGE MASON UNIVERSITY

### Board of Visitors

**November 28, 1990 - 4 p.m.** – Open Meeting  
George Mason University, Mason Hall, Board Room #23, Fairfax, Virginia. ☒

A regular meeting of the Board of Visitors of George Mason University whereby the board will hear reports of recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals or organizations who request it.

Standing Committees will meet during the day November 28.

**Contact:** Ann Wingblade, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 764-7904.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **November 27, 1990 - 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., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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**December 21, 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 Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations if the Virginia Health Services Cost Review Council.** The proposed amendments will allow investor-owned institutions organized as proprietorships, partnerships, or S-corporations to have their income tax imputed into the aggregate cost of operating the facility to allow them to be treated similarly to corporations.

Statutory Authority: §§ 9-158 and 9-164 of the Code of Virginia.

Written comments may be submitted until December 21, 1990.

**Contact:** G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## BOARD FOR HEARING AID SPECIALISTS

† **November 9, 1990 - 8:30 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss adjustments to its fee structure and bringing its application in line with the adjustments.

**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.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**November 7, 1990 - 9:30 a.m.** – Open Meeting  
Council Conference Room, 9th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A general business meeting. (Contact Council for more information.)

**Contact:** Barry M. Dorsey, Deputy Director, 9th Floor, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2629.

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**November 6, 1990 - 9 a.m.** – Open Meeting  
**December 4, 1990 - 9 a.m.** – Open Meeting  
Hopewell Community Center, Second and City Point Road,

# Calendar of Events

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 Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

November 9, 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 Virginia Housing Development Authority intends to adopt regulations entitled: **VR 400-02-0016. Rules and Regulations for Allocation of Elderly and Disabled Low-Income Housing Tax Credits.** The purpose of the proposed regulation is to provide for the allocation of state tax credits to owners of housing for occupancy by low-income elderly and disabled persons and families.

Statutory Authority: §§ 36-55.30:3 and 58.1-339 of the Code of Virginia.

Written comments may be submitted until November 9, 1990.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

† November 20, 1990 - 11 a.m. - Open Meeting  
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the board to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed Rules and Regulations for Allocation of Elderly and Disabled Low-Income Housing Tax Credits; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

## COUNCIL ON INDIANS

† December 12, 1990 - 2 p.m. - Open Meeting  
Koger Executive Complex, Blair Building, Conference Room C, 8007 Discovery Drive, Richmond, Virginia.

A regular meeting to conduct general business and to receive reports from the council standing committees.

Contact: Mary Zoller, Secretary Manager, 8007 Discovery Drive, Richmond, VA 23229-9285, telephone (804) 662-9285 or 1-800-552-7096/TDD ☒

## DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes Board

January 8, 1991 - 10 a.m. - Public Hearing  
Virginia Housing and Development Authority Conference Center, 601 South Belvidere Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: **VR 425-01-74. Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees.** The proposed regulation provides a procedure for notification to the Department of Labor and Industry of asbestos projects and establishes permit fees for those projects.

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

Written comments may be submitted until October 15, 1990.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, P.O. Box 12064, Richmond, VA 23241-0064, telephone (804) 786-2384.

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January 8, 1991 - 10 a.m. - Public Hearing  
Virginia Housing Development Authority, Conference Center #1, 601 South Belvidere Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **VR 425-01-75. Boiler and Pressure Vessel Rules and Regulations.** Included in these proposed amendments are changes due to required departmental regulatory review and a requirement for the National Board "R" Stamp for organizations performing repairs and alterations to boilers and pressure vessels.

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Written comments may be submitted until December 28, 1990, to Anna Bradley, Department of Labor and Industry,



# Calendar of Events

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P.O. Box 12064, Richmond, VA 23241.

**Contact:** Jim Hicks, Director of Boiler and Pressure Vessel Safety, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-3262.

## LIBRARY BOARD

**November 8, 1990 - 9:30 a.m. - Open Meeting**  
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, 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.

## COMMISSION ON LOCAL GOVERNMENT

**November 5, 1990 - 10 a.m. - Open Meeting**  
State Capitol, House Room 1, Richmond, Virginia.

A regular meeting of the Commission on Local Government to consider such matters as may be presented.

**Contact:** Barbara Bingham, Administrative Assistant, 702 8th St. Office Building., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## LOCAL GOVERNMENT ADVISORY COUNCIL

† **November 19, 1990 - 1 p.m. - Open Meeting**  
The Homestead, Hot Springs, Virginia.

A regular meeting of the Local Government Advisory Council which will be held in conjunction with the 1990 annual conference of the Virginia Association of Counties. There will be a public comment period. The LGAC will discuss future agenda topics.

Persons desiring to participate in the council's public comment period and requiring special accommodations or interpreter services should contact the Council's offices by November 12, 1990.

**Contact:** Robert H. Kirby, Secretary, 702 Eighth Street Office Building, 805 East Broad St., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## MARINE RESOURCES COMMISSION

† **November 27, 1990 - 9:30 a.m. - Open Meeting**  
2600 Washington Avenue, 4th Floor, Room 403, Newport

News, Virginia. ☒

The Commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The Commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals; fishery management plans; fishery conservation issues; licensing; shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits, licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing.

The Commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**November 23, 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-04-8.7. Client Appeals**. This proposed regulation will govern the appeal process of Medicaid recipients.

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

Written comments may be submitted until 4:30 p.m., November 23, 1990, to Marsha Vandervall, Director Division of Client Appeals, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

\* \* \* \* \*

**December 7, 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 Medical Assistance Services intends to adopt regulations

entitled: VR 460-04-8.11. Home and Community-Based Services to Individuals with Acquired Immune Deficiency Syndrome and Aids Related Complex. This regulation will provide for home and community based services for individuals with AIDS/ARC.

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

Written comments may be submitted until 4:30 p.m., December 7, 1990, to Chris Pruett, Manager, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

## BOARD OF MEDICINE

November 15, 1990 - 8 a.m. - Open Meeting  
November 16, 1990 - 8 a.m. - Open Meeting  
November 17, 1990 - 8 a.m. - Open Meeting  
November 18, 1990 - 8 a.m. - Open Meeting  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The full board will meet on Thursday, November 15, 1990, in open session to conduct general board business and discuss any other items which may come before the board. The board will also meet on Friday, Saturday, and Sunday, November 16, 17 and 18, 1990, to review reports, interview licensees and make decisions on discipline matters.

Public comment will be received at the conclusion of the meeting.

December 8, 1990 - 9 a.m. - Open Meeting  
December 9, 1990 - 9 a.m. - Open Meeting  
The Boar's Head Inn, Charlottesville, Virginia. ☐

The board and its staff will meet to plan for accomplishing the work as assigned to it. No public comments will be received. No regular business of the board will be conducted.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925.

## Legislative Committee

November 8, 1990 - 2 p.m. - Open Meeting  
Department of Health Professions, Board Room 4, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) consider amendments to VR 465-02-01, (ii) further define § 54.1-2919 of the Code of

Virginia, for the purpose of restructuring the membership or appointees to serve on Informal Conferences before the board, and (iii) make recommendations to the full board.

Public comments may be entertained at the conclusion of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

## Advisory Committee on Physician's Assistants

November 9, 1990 - 10 a.m. - Open Meeting  
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The Advisory Committee on Physician's Assistants will review Protocol Forms as required by VR 465-04-01 § 2.2 and other such business that requires action and recommendations to the Board of Medicine.

Public comments may be received at the conclusion of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

## Advisory Committee on Radiological Technology

† November 30, 1990 - 2 p.m. - Open Meeting  
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review proposed regulations VR 465-10-01, regulating the certification of Radiological Therapy Practitioners, and other such matters that may come before the Committee.

Public comments may be received at the conclusion of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229, telephone (804) 662-9925.

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

November 10, 1990 - 8:30 a.m. - Open Meeting  
Virginia Military Institute, Lexington, Virginia. ☐

A regular meeting of the VMI Board of Visitors. Committee reports. ☐

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone(703)

# Calendar of Events

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464-7206.

## BOARD OF NURSING

† November 26, 1990 - 9 a.m. - Open Meeting  
† November 27, 1990 - 9 a.m. - Open Meeting  
† November 28, 1990 - 9 a.m. - Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under the jurisdiction of the board. At 1:30 p.m. on Monday, November 26, 1990, the board will consider oral and written comments received during the comment period which ended on October 27, 1990, on proposed regulations related to the authority of licensed practical nurses to teach aides. The board will develop responses to comments, and take action on the proposed regulations.

Public comment on other matters will be received during an open forum session beginning at 11:00 a.m. on Monday, November 26, 1990.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

## BOARD OF NURSING HOME ADMINISTRATORS

December 5, 1990 - 9 a.m. - Open Meeting  
NOTE: CHANGE IN LOCATION  
1601 Rolling Hills Drive, Conference Rooms 3 and 4, Richmond, Virginia. ☒

Nursing Home Administrators Examinations.

December 6, 1990 - 8:30 a.m. - Open Meeting  
1601 Rolling Hills Drive, Conference Rooms 3 and 4, Richmond, Virginia. ☒

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9907.

## JOINT BOARDS OF NURSING AND MEDICINE

### Special Conference Committee

† November 28, 1990 - 2 p.m. - Open Meeting  
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to conduct an informal conference with a licensee.

Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

## BOARD OF OPTICIANS

† November 13, 1990 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss proposed regulations and adjustments to its fee structure and bringing its application in line with the adjustments.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016.

## VIRGINIA OUTDOORS FOUNDATION

† November 7, 1990 - 10:30 a.m. - Open Meeting  
† December 10, 1990 - 10:30 a.m. - Open Meeting  
State Capitol, House Room 2, Richmond, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-5539.

## BOARD OF PHARMACY

† November 14, 1990 - 9 a.m. - Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #1, Richmond, Virginia.

A board meeting.

Public comments will be accepted at the beginning of the meeting or at any appropriate occasion during the meeting.

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

## BOARD OF PSYCHOLOGY

November 15, 1990 - 9 a.m. - Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

## Calendar of Events

A meeting to (i) conduct general board business; (ii) discuss results of national and state written examinations; and (iii) discuss regulatory review.

Public comment will not be received during the meeting.

Written comments may be submitted until November 2, 1990, for distribution to the board members.

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229-3005, telephone (804) 662-9913.

### Legislative Committee

† **November 14, 1990 - 4 p.m. – Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review regulations.

Public comment will not be received at this meeting.

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229-3005, telephone (804) 662-9913.

### REAL ESTATE APPRAISER BOARD

† **November 27, 1990 - 1:30 p.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Fifth Floor, Conference Room One, Richmond, Virginia.

An organizational meeting of the board for the purpose of planning. Agenda will consist of discussion of regulatory issues.

**Contact:** Demetra Y. Kontos, Assistant Director, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-2175 or toll-free 1-800-552-3016.

### REAL ESTATE BOARD

† **November 9, 1990 - 10 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Fifth Floor, Conference Room One, Richmond, Virginia.

The board will conduct a formal hearing: File Number 89-01656, Real Estate Board v. Carl R. Nichols.

**November 27, 1990 - 10 a.m. – Open Meeting**  
**November 28, 1990 - 10 a.m. – Open Meeting**  
Council Chambers, Municipal Building, 4th Floor, 215 Church Street, Roanoke, Virginia.

The board will conduct a formal hearing: File Numbers 86-00183, 87-01417, 8801102, Real Estate Board v. Floyd Earl Frith and Kenneth Gusler, Jr.

† **December 11, 1990 - 2 p.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Fifth Floor, Conference Room One, Richmond, Virginia.

The board will conduct a formal hearing: File Number 89-00933, Real Estate Board v. William S. Ives.

**Contact:** Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

### VIRGINIA RESOURCES AUTHORITY

† **November 13, 1990 - 10 a.m. – Open Meeting**  
Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of September 11, 1990; (ii) review the authority's operations for the prior months; and (iii) to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., 909 East Main Street, Suite 707, Mutual Building, Richmond, VA 23219, telephone (804) 664-3100 or FAX Number (804) 644-3109.

### STATE BOARD OF SOCIAL SERVICES

† **November 14, 1990 - 2 p.m. – Open Meeting**

† **November 15, 1990 - 9 a.m. – Open Meeting**

(If necessary)

Omni Hotel, 1000 Batten Bay Boulevard, Newport News, Virginia. ☒

A work session and formal business meeting of the board.

**Contact:** Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

### DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**November 23, 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 Social Services, intends to adopt regulations entitled: **VR 615-01-28. Aid to Dependent Children (ADC) Program - Entitlement Date.** The purpose of the proposed amendment is to revise the

# Calendar of Events

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entitlement date policy to require that when an application is approved in the month of application, entitlement will begin with the date of authorization.

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

Written comments may be submitted until November 23, 1990, to Mr. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Dr., Richmond, VA 23229-8699.

**Contact:** Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

\* \* \* \* \*

**November 24, 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 Social Services intends to adopt regulations entitled: **VR 615-53-01. Child Day Care Services Policy.** The proposed regulation establishes child day care policy that the department must have to implement federal requirements related to welfare reform pursuant to Federal Public Law 100-485.

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

Written comments may be submitted until November 24, 1990.

**Contact:** Margaret Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9182.

\* \* \* \* \*

† **January 3, 1991** – 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 adopt regulations entitled: **VR 615-01-35. Monthly Reporting in the Food Stamp Program.** This regulation requires monthly reports from all Food Stamp households that are required to file them for the Aid to Dependent Children Program or which contain at least one person with earnings.

## STATEMENT

**Basis:** The Hunger Prevention Act of 1988, PL 100-435, enacted September 19, 1988, gave states the option of requiring food stamp recipients to file monthly reports of their circumstances in order to remain eligible to receive food stamp benefits.

**Purpose:** This regulation defines which households of those who receive benefits from the Food Stamp Program must submit monthly reports of their household circumstances

in order to remain eligible for food stamp benefits.

**Impact:** Virginia has approximately 3500 households filing monthly reports of household circumstances under the current definition of the monthly reporting population, which was mandated by federal regulations at 7CFR 273.21, prior to enactment of The Hunger Prevention Act of 1988. This regulation would add no households to the monthly reporting population, and would reduce the population by eliminating three categories of households which currently file reports. They are (i) households with a recent work history, (ii) households with all earnings from a self-employment enterprise, and (iii) households with all earning from contract income (mostly local school system employees). While the Department of Social Services has no data indicating how many households would be eliminated from monthly reporting under this regulation, anecdotal evidence indicates a probable reduction in the population of somewhere between 5% and 10%, or a reduction of from 1700 to 3500 households. This represents a direct cost savings of between \$11,000 and \$23,000 per year in postage and handling costs. It is also anticipated that this regulation could provide a work reduction at the local level of up to 23,500 man hours per year.

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

Written comments may be submitted until January 3, 1991, to Burt Richman, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699.

**Contact:** Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

## STATE CORPORATION COMMISSION

### Bureau of Insurance Special Advisory Commission on Mandated Health Insurance Benefits

**November 5, 1990 - 11 a.m.** – Public Hearing  
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☐

The Special Advisory Commission on Mandated Health Insurance Benefits will host a public hearing on proposed legislation that would require health insurance policies to include coverage for infertility treatment.

The bill (HB 271) proposes that individual or group health policies or health services plans must include coverage for medically necessary expenses of diagnosis and treatment of infertility.

**Contact:** Ann Colley, Supervisor, Life and Health Research, State Corporation Commission, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23209, telephone (804) 786-7691,

toll-free 1-800-552-7945 or (804) 225-3806/TDD ☎

DEPARTMENT OF TAXATION

† November 8, 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 630-2-322.01. Virginia Individual Income Tax: Self-employment Tax Addback and Subtraction. The purpose of this regulation is to establish the requirements for the addback and subsequent subtraction of self-employment tax for taxable years 1990-1993.

STATEMENT

Basis: These regulations are issued under the authority granted by § 58.1-203 of the Code of Virginia.

The General Assembly enacted legislation (1990 Acts of Assembly, Chapter 714) which requires individuals to add back for taxable years beginning on or after January 1, 1990, and before January 1, 1992, any amount of self-employment tax deduction under § 164(f) of the Internal Revenue Code, and subtract for taxable years beginning on or after January 1, 1992, and before January 1, 1994, those amounts added back in taxable years 1990 and 1991, respectively.

Purpose: This regulation explains the new requirements for the addition and subsequent subtraction of any amount of the self-employment tax deduction allowed under § 164(f) of the Internal Revenue Code for purposes of determining Virginia taxable income for taxable years 1990 through 1993.

Issues: Regulatory provisions are required in order to carry out the intent of the General Assembly in providing the requirements for the addition and subtraction of the federal self-employment tax deduction on an individual's Virginia income tax return.

Substance: Any amount of self-employment tax deduction under § 164(f) of the Internal Revenue Code (the amount of self-employment taxes imposed under I.R.C. § 1401 for Social Security and Medicare Hospital Insurance) shall be added for purposes of determining Virginia taxable income in taxable years 1990 and 1991. A subsequent subtraction shall occur in taxable years 1992 and 1993 for those amounts added back, with provision for a carryover to taxable year 1993, of any amounts of the 1990 addition not used in taxable year 1992. If the taxpayer has insufficient income to benefit from the subtraction and any carryover in taxable year 1993, the taxpayer may file for a refund. The refund is limited to the amount by which the sum of the difference between the tax actually paid in taxable

years 1990 and 1991, and the tax computed without the addback exceeds the sum of the difference between the tax actually paid and the tax computed without the subtraction for taxable years 1992 and 1993.

The addition requirements are applicable for taxable years beginning on or after January 1, 1990, and before January 1, 1992. The subtraction requirements are applicable for taxable years beginning on or after January 1, 1992, and before January 1, 1994.

Impact: Costs associated with this regulation are the costs directly related to the development and maintenance of the data system of the department and additionally include, but are not limited to, the promulgation of this regulation.

This regulation will affect all self-employed individuals that are required to file a Virginia income tax return. The number of persons affected is unknown at this time.

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

Written comments may be submitted until January 4, 1991.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Department of Taxation, Richmond, VA 23282, telephone (804) 367-8010.

\* \* \* \* \*

November 8, 1990 - 10 a.m. - Public Hearing  
General Assembly Building, House Room C, 9th and Broad  
Streets, 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 630-2-322.02 Individual Income Tax: Age Subtraction. This proposed regulation sets forth the age 62 and over income subtraction available to taxpayers.

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

Written comments may be submitted until December 7, 1990.

Contact: Janie E. Bowen, Director, Tax Policy, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010.

\* \* \* \* \*

November 8, 1990 - 10 a.m. - Public Hearing  
General Assembly Building, House Room C, 9th and Broad  
Streets, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: VR 630-3-323.1 Corporation Income Tax: Excess Cost Recovery. The amendment to the statutory recovery

# Calendar of Events

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period and percentages for the outstanding balance of ACRS depreciation affects the subtraction claimed by corporate taxpayers. The adoption of this regulation will make the regulation consistent with the changes made to the law.

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

Written comments may be submitted until December 7, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010.

\* \* \* \* \*

**November 8, 1990 - 10 a.m. - Public Hearing**  
General Assembly Building, House Room C, 9th and Broad Streets, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **VR 630-2-492. Declaration of Estimated Income Tax: Failure by Individual to Pay Estimated Tax.** This regulation sets forth the \$150 tax threshold on the underpayment of estimated taxes by an individual.

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

Written comments may be submitted until December 7, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010.

\* \* \* \* \*

**November 8, 1990 - 10 a.m. - Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **VR 630-3-302. Corporation Income Tax: Definitions - "Sales" and VR 630-3-414. Corporation Income Tax: Sales Factor.** The amendment to the statutory definition of "sales" affects the computation of the sales factor for multistate corporations with sales of intangible property. The adoption of these regulations will make the regulations consistent with the revised statutory definition and set forth the method for computing net gain from the sale of intangible property for multistate corporations required to compute the Virginia sales factor.

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

Written comments may be submitted until December 7, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010.

## COMMONWEALTH TRANSPORTATION BOARD

† **November 14, 1990 - 2 p.m. - Open Meeting**  
Ramada Inn - Manassas, 10820 Balls Road, Manassas, Virginia. ☒ (Interpreter for deaf provided upon request)

Work session of the board and the Department of Transportation staff.

† **November 15, 1990 - 10 a.m. - Open Meeting**  
Ramada Inn - Manassas, 10820 Balls Road, Manassas, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting, on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

**Contact:** Albert W. Coates, Jr., Assistant Commissioner, 1401 E. Broad Street, Richmond, VA 23219, telephone (804) 786-9950.

## TRANSPORTATION SAFETY BOARD

† **December 14, 1990 - 10 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:** William H. Leighty, Deputy Commissioner for Transportation Safety, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23219, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

## TREASURY BOARD

**November 21, 1990 - 9 a.m. - Open Meeting**  
101 North 14th Street, James Monroe Building, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting.

**Contact:** Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4931.

# Calendar of Events

## VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

November 7, 1990 - 8:30 a.m. - Open Meeting  
November 8, 1990 - 8:30 a.m. - Open Meeting  
Ramada Inn, 57th Street, Oceanfront, Virginia Beach, Virginia.

November 7, 1990:

8:30 a.m. - Orientation session for program visits in area.

9:30 a.m. - Program visits in the area.

1:30 p.m. - Committee meetings.  
State Plan and Private Sector Involvement Committee  
Evaluation and Access Committee

3:30 p.m. - Executive Committee

November 8, 1990:

8:30 a.m. - Business session.

Reports will be received from council committees, Virginia Department of Education, Governor's Job Training Coordinating Council, Virginia Community College System, and Department of Correctional Education.

Contact: George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Road, Richmond, VA 23237, telephone (804) 275-6218.

## VIRGINIA RACING COMMISSION

† November 20, 1990 - 9:30 a.m. - Open Meeting  
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☐

A meeting to review drafts of regulations and to consider other business that may come before the Commission.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

## VIRGINIA VOLUNTARY FORMULARY BOARD

† December 7, 1990 - 10 a.m. - Public Hearing  
Main Floor Conference Room, James Madison Building, 109 Governor Street, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the

Formulary that became effective on April 23, 1990, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on December 7, 1990, will be made a part of the hearing record and considered by the board.

† January 17, 1990 - 10:30 a.m. - Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and new product data for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or (804) 786-3596 (SCATS).

## DEPARTMENT OF WASTE MANAGEMENT

November 7, 1990 - 7:30 p.m. - Public Hearing  
Circuit Court Room, Municipal Building, 619 Second Street, Radford, Virginia.

Pursuant to the requirements of Part VII of the Solid Waste Management Regulations (§ 7.E., VR 672-20-1), the Draft Solid Waste Disposal Facility permit for the southern expansion of the Ingles Mountain Interim Sanitary Landfill, proposed by the New River Resource Authority, is available for public review and comment. This new permit will effectively supercede the existing solid waste disposal facility permit (No. 479), which will be revoked upon issuance of the new permit and incorporated within the new permit.

Contact: E. D. Gillespie, Environmental Engineering Consultant, Virginia Department of Waste Management, 101 N. 14th St., 11th Fl., Monroe Bldg., Richmond, VA 23219, telephone (804) 761-0514.

## VIRGINIA WASTE MANAGEMENT BOARD

November 6, 1990 - 10 a.m. - CANCELLED  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

The general business meeting has been cancelled.

Contact: Loraine Williams, Secretary, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075 or (804) 225-3753/TDD ☐



# Calendar of Events

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## STATE WATER CONTROL BOARD

**November 5, 1990 - 7 p.m. - Public Meeting**  
Parry McCluer Middle School, 2329 Chestnut Avenue,  
Buena Vista, Virginia. ☒

The State Water Control Board, at its September 24, 1990, meeting, voted to reopen the hearing record and hold a public hearing to receive additional comments on the proposed 401 Certification for Hadson Development Corporation 14-A Joint Venture, 16845 Von Karman Avenue, Irvine, California 92714. This hearing is to receive comments only on the potential interference with groundwater and surface water and the interrelationship between the two, and the potential impact on wells which may result from issuance of the certificate.

**Contact:** Lori A. Freeman, Office of Policy Analysis, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815.

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**November 26, 1990 - 7 p.m. - Public Hearing**  
Virginia Beach City Council Chambers, City Hall Building,  
Second Floor, Courthouse Drive, Virginia Beach, Virginia.

**November 28, 1990 - 7 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room,  
3738 Brambleton Avenue, S.W., Roanoke, Virginia.

**December 4, 1990 - 7 p.m. - Public Hearing**  
Spotsylvania County Board of Supervisors Room, County  
Administration Building, Route 208 at Spotsylvania  
Courthouse, Spotsylvania, Virginia.

**December 5, 1990 - 7 p.m. - Public Hearing**  
Virginia War Memorial Auditorium, 621 South Belvidere  
Street, Richmond, 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 680-15-02. Virginia Water Protection Permit Regulation.** The proposed regulation delineates the procedures and requirements to be followed for issuance of a Virginia Water Protection Permit.

Statutory Authority: §§ 62.1-44.15:5 and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until December 24, 1990, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

**Contact:** Martin G. Ferguson, Jr., Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-1868.

† **December 10, 1990 - 7 p.m. - Public Hearing**

Virginia Beach City Council Chambers, City Hall Building,  
Courthouse Drive, Virginia Beach, Virginia.

† **December 12, 1990 - 7 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room,  
3738 Brambleton Avenue, S.W., Roanoke, Virginia.

A public meeting to receive views and comments and to answer questions of the public on the promulgation of regulations entitled Oil Discharge Contingency Plans and Financial Responsibility Requirements.

**Contact:** David Ormes, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-9704.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**December 3, 1990 - 8:30 a.m. - Open Meeting**  
**December 4, 1990 - 8:30 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

An open meeting to conduct regulatory review and routine board business.

**Contact:** Mr. 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 YOUTH AND FAMILY SERVICES

† **November 8, 1990 - 10 a.m. - Open Meeting**  
520 King Street, Alexandria, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

**Contact:** Joyce Fogg, Secretary of the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3013.

## LEGISLATIVE

### VIRGINIA CODE COMMISSION

**November 20, 1990 - 10 a.m. - Open Meeting**  
General Assembly Building, Sixth Floor Conference Room,  
910 Capitol St., Richmond, Virginia. ☒

The commission will continue with its revision of Title 65.1.

**Contact:** Joan W. Smith, Virginia Code Commission, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### **JOINT SUBCOMMITTEE STUDYING EARLY CHILDHOOD AND DAY CARE PROGRAMS**

† **November 8, 1990 - 10 a.m.** – Open Meeting  
General Assembly Building, House Room D, Richmond, Virginia.

There will be a work session for the subcommittee beginning at 10 a.m. A public hearing will begin after a lunch break between the end of the work session and the beginning of the public hearing. HJR 124.

**Contact:** Jeffrey A. Finch, Assistant Clerk, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227. Those persons wishing to speak should contact Brenda Edwards, Senior Research Associate, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### **JOINT SUBCOMMITTEE TO STUDYING EARLY INTERVENTION SERVICES TO INFANTS AND TODDLERS WITH HANDICAPPING CONDITIONS**

**November 7, 1990 - 1 p.m.** – Open Meeting  
House Room D, General Assembly Building, Richmond, Virginia.

A meeting to continue its study. HJR 164.

**Contact:** Jessica F. Bolecek, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### **JOINT SUBCOMMITTEE STUDYING ELECTION LAWS**

**November 27, 1990 - 10 a.m.** – Open Meeting  
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☐

An open meeting to consider SJR 82.

**Contact:** Mary Spain, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or John McE. Garrett, Deputy Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-4638.

### **JOINT SUBCOMMITTEE STUDYING THE FEASIBILITY OF ESTABLISHING A RESIDENTIAL SCHOOL FOR GIFTED STUDENTS AT MONTPELIER**

† **November 19, 1990 - 2 p.m.** – Open Meeting  
General Assembly Building, House Room D, Richmond, Virginia.

The initial meeting for the study of the feasibility of establishing a residential school for gifted students at Montpelier. HJR 119.

**Contact:** Kathleen G. Harris, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### **JOINT SUBCOMMITTEE STUDYING HUMAN IMMUNODEFICIENCY VIRUSES (AIDS)**

**November 7, 1990 - 10 a.m.** – Open Meeting  
**November 27, 1990 - 10 a.m.** – Open Meeting  
House Room C, General Assembly Building, Richmond, Virginia.

A meeting to continue their study. HJR 129.

**Contact:** Norma Szakal, Staff attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### **JOINT SUBCOMMITTEE STUDYING THE NECESSITY AND DESIRABILITY OF REVISING THE COMMONWEALTHS "COMPARATIVE PRICE ADVERTISING" STATUTE**

**November 8, 1990 - 10 a.m.** – Public Hearing  
John C. Wood Building, Room 8, 3730 Old Lee Highway, Fairfax City, Virginia.

**December 5, 1990 - 10 a.m.** – Public Hearing  
Virginia Beach Center for the Arts, 2200 Park Avenue, Virginia Beach, Virginia.

A public hearing in a continuation of its study on Comparative Price Advertising. HJR 184.

**December 19, 1990 - 10 a.m.** – Public Hearing  
General Assembly Building, House Room C, Richmond, Virginia.

A work session and public hearing in a continuation of its study of the necessity and desirability of revising the Commonwealth's "Comparative Price Advertising" Statute. HJR 184.

**Contact:** Mary Geisen, Research Associate, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

# Calendar of Events

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## **CITIZEN COMMITTEE STUDYING THE NECESSITY OF LEGISLATION REGARDING DANGEROUS DOMESTIC ANIMALS**

† **November 20, 1990 - 10:30 a.m.** – Public Hearing  
General Assembly Building, 3rd Floor West, Richmond, Virginia.

A meeting to consider the final draft of recommendations. SJR 136.

**Contact:** Liz Sills, 219-86th St., Virginia Beach, VA 23451, telephone (804) 428-6682.

## **COMMISSION ON POPULATION GROWTH AND DEVELOPMENT**

**November 29, 1990 - 10 a.m.** – Open Meeting  
**December 20, 1990 - 10 a.m.** – Open Meeting  
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia.

Statutory Commission, §§ 9-145.11 through 9-145.15 (c.833, 1990).

Agendas have not been set.

**Contact:** Jeff Finch, Assistant Clerk for Projects and Research, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227.

## **JOINT SUBCOMMITTEE STUDYING PROPERTY OWNERS' ASSOCIATION ACT**

† **November 19, 1990 - 10 a.m.** – Public Hearing  
House Room C, General Assembly Building, Richmond, Virginia.

A public hearing for the purpose of reviewing House Bill 247 relating to the Property Owners' Association Act. HJR 247.

**Contact:** Maria Everett, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## **JOINT SUBCOMMITTEE STUDYING THE PROVISIONS OF THE CODE OF VIRGINIA RELATING TO HORSE RACING AND PARI-MUTUEL WAGERING**

† **November 16, 1990 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Street, 6th Floor Conference Room, Richmond, Virginia.

A work session in a continuation of its study of the provisions of the Code of Virginia relating to Horse Racing and Pari-Mutuel Wagering. HJR 178.

**Contact:** Maria J.K. Everett, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## **CHRONOLOGICAL LIST**

### **OPEN MEETINGS**

#### **November 5**

† Funeral Directors and Embalmers, Board of Local Government, Commission on

#### **November 6**

† Alcohol Safety Action Program - Rockbridge Hopewell Industrial Safety Council

#### **November 7**

Community Colleges, State Board for Early Intervention Services to Infants and Toddlers with Handicapping Conditions, Joint Subcommittee Studying

Higher Education for Virginia, State Council on Human Immunodeficiency Viruses (AIDS), Joint Subcommittee Studying

† Outdoors Foundation, Virginia Vocational Education, Virginia Council on

#### **November 8**

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for

- Board for Architects

† Child Day-Care Council  
Community Colleges, State Board for Library Board

Medicine, Board of

- Legislative Committee

Vocational Education, Virginia Council on

† Youth and Family Services, Board of

#### **November 9**

† Family and Children's Trust Fund of Virginia

- Board of Trustees

† General Services, Department of

- Division of Forensic Science

† Hearing Aid Specialists, Board for

Medicine, Board of

- Advisory Committee on Physician's Assistants

† Real Estate Board

#### **November 10**

Military Institute, Virginia

- Board of Visitors

#### **November 12**

Agriculture and Consumer Services, Department of

- Virginia Pesticide Control Board

† Barbers, Board for

# Calendar of Events

## November 13

Agriculture and Consumer Services, Department of  
- Virginia Pesticide Control Board  
† Opticians, Board for  
† Virginia Resources Authority

## November 14

Agriculture and Consumer Services, Department of  
- Virginia Pesticide Control Board  
Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
- Board for Professional Engineers  
Alcoholic Beverage Control Board  
† Chesapeake Bay Public Access Information Meeting  
† Conservation and Recreation, Department of  
- Recreation in the Juvenile Justice System Advisory  
Board  
Corrections, Board of  
Emergency Planning Committee, Local - City of  
Portsmouth  
† Pharmacy, Board of  
† Psychology, Board of  
- Legislative Committee  
† Social Services, Board of  
† Transportation Board, Commonwealth

## November 15

† Chesapeake Bay Commission  
† Emergency Planning Committee, Local - Richmond  
Medicine, Board of  
Psychology, Board of  
† Social Services, Board of  
† Transportation Board, Commonwealth

## November 16

Architects, Profession/Engineering, Land Surveyors and  
Landscape Architects, Board for  
- Board for Land Surveyors  
† Chesapeake Bay Commission  
Education Assistance Authority and Virginia Education  
Loan Authority  
- Boards of Directors  
Medicine, Board of  
† Provisions of the Code of Virginia relating to Horse  
Racing and Pari-Mutuel Wagering, Joint Subcommittee  
Studying

## November 17

Medicine, Board of

## November 18

Medicine, Board of

## November 19

† Local Government Advisory Council  
† Feasibility of Establishing a Residential School for  
Gifted Students at Montpelier, Joint Subcommittee  
Studying

## November 20

Code Commission, Virginia

Gas and Oil Board, Virginia

† Housing Development Authority, Virginia  
† Necessity of Legislation Regarding Dangerous  
Domestic Animals, Citizen Committee Studying  
† Virginia Racing Commission

## November 21

† Emergency Planning Committee, Local - Roanoke  
Valley  
Treasury Board

## November 26

Alcoholic Beverage Control Board  
† Nursing, Board of

## November 27

Education, Board of  
Election Laws, Joint Subcommittee Studying  
Emergency Planning Committee, Local - Gate City  
Funeral Directors and Embalmers, Board of  
† Health Services Cost Review Council, Virginia  
Human Immunodeficiency Viruses (AIDS), Joint  
Subcommittee Studying  
† Marine Resources Commission  
† Nursing, Board of  
† Real Estate Appraiser Board

## November 28

† Arts, Virginia Commission for the  
Education, Board of  
Funeral Directors and Embalmers, Board of  
Lottery Board, State  
† Nursing, Board of  
† Nursing and Medicine, Joint Boards of  
- Special Conference Committee  
Real Estate Board  
George Mason University  
- Board of Visitors

## November 29

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
† Arts, Virginia Commission for the  
† Compensation Board  
Population Growth and Development, Commission on

## November 30

Athletic Board  
† Conservation and Recreation, Department of  
- Catoctin Creek Scenic River Advisory Board  
† Medicine, Board of  
- Advisory Committee on Radiological Technology

## December 3

Waterworks and Wastewater Works Operators, Board  
for

## December 4

Hopewell Industrial Safety Council  
Waterworks and Wastewater Works Operators, Board  
for

# Calendar of Events

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## December 5

Educational Opportunity for All Virginians, Governor's Commission on  
Nursing Home Administrators, Board of

## December 6

† Children, Departement for  
- State-Level Runaway Youth Services Network  
† Early Childhood and Day Care Programs, Joint Subcommittee Studying  
Emergency Planning Committee, Local - Chesterfield County  
Nursing Home Administrators, Board of

## December 7

Family and Children's Trust Fund of Virginia  
- Board of Trustees

## December 8

Medicine, Board of

## December 9

Medicine, Board of

## December 10

Alcoholic Beverage Control Board  
† Outdoors Foundation, Virginia

## December 11

† Real Estate Board

## December 12

Corrections, Board of  
† Indians, Council on

## December 14

† Funeral Directors and Embalmers, Board of  
† Transportation Safety Board

## December 19

Lottery Board, State

## December 20

† Compensation Board  
Population Growth and Development, Commission on

## December 21

† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board

## January 10, 1991

Commerce, Board of

## January 17

† Voluntary Formulary Board, Virginia

## PUBLIC HEARINGS

### November 5

State Corporation Commission, Bureau of Insurance  
- Special Advisory Commission on Mandated Health Insurance Benefits  
Water Control Board, State

### November 7

Waste Management, Department of

### November 8

† Early Childhood and Day Care Programs, Joint Subcommittee Studying  
Necessity and Desirability of Revising the Commonwealth's "Comparative Price Advertising" Statute, Joint Subcommittee Studying  
Taxation, Department of

### November 19

† Property Owners' Association Act, Joint Subcommittee Studying

### November 26

Water Control Board, State

### November 28

Water Control Board, State

### December 4

Water Control Board, State

### December 5

Necessity and Desirability of Revising the Commonwealth's "Comparative Price Advertising" Statute, Joint Subcommittee Studying  
Water Control Board, State

### December 6

Agriculture and Consumer Services, Department of

### December 7

† Voluntary Formulary Board, Virginia

### December 10

† Water Control Board, State

### December 12

† Water Control Board, Virginia

### December 19

Necessity and Desirability of Revising the Commonwealth's "Comparative Price Advertising" Statute, Joint Subcommittee Studying

### January 8, 1991

Labor and Industry, Department of  
- Safety and Health Codes Board