

K

THE VIRGINIA REGISTER

OF REGULATIONS

COD

5/R26/7-17

VA
DOC



ALDERMAN LIBRARY
PUBLIC DOCUMENTS
REFERENCE DEPARTMENT
MAY 24 1991
VA DOC
UNIVERSITY OF VIRGINIA

VOLUME SEVEN • ISSUE SEVENTEEN

May 20, 1991

1991

Pages 2415 Through 2558

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

"The *Virginia Register of Regulations*" (USPS-001831) is published bi-weekly, except four times in January, April, July and October for \$100 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to the *Virginia Register of Regulations*, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

The *Virginia Register of Regulations* is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

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

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

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

September 1990 through December 1991

MATERIAL SUBMITTED BY PUBLICATION DATE
Noon Wednesday

Volume 7 - 1990-91

Sept. 19	Oct. 8
Oct. 3	Oct. 22
Oct. 17	Nov. 5
Oct. 31	Nov. 19
Nov. 14	Dec. 3
Nov. 28	Dec. 17
Dec. 12	Dec. 31
Index 1 - Volume 7	

Dec. 26	Jan. 14, 1991
Jan. 9	Jan. 28
Jan. 23	Feb. 11
Feb. 6	Feb. 25
Feb. 20	Mar. 11
Mar. 6	Mar. 25
Index 2 - Volume 7	

Mar. 20	Apr. 8
Apr. 3	Apr. 22
Apr. 17	May 6
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	

Volume 8 - 1991-92

Sept. 18	Oct. 7
Oct. 2	Oct. 21
Oct. 16	Nov. 4
Oct. 30	Nov. 18
Nov. 13	Dec. 2
Nov. 27	Dec. 16
Dec. 11	Dec. 30
Index 1 - Volume 8	

TABLE OF CONTENTS

PROPOSED REGULATIONS

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Rules and Regulations of the Virginia Health Services Cost Review Council. (VR 370-01-001) 2417

VIRGINIA STATE LIBRARY AND ARCHIVES (LIBRARY BOARD)

Standards for the Microfilming of Public Records for Archival Retention. (VR 440-01-137.1) 2423

Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process. (VR 440-01-137.2)

Standards for the Microfilming of Ended Law Chancery and Criminal Cases of the Clerks of the Circuit Courts Prior to Disposition. (VR 440-01-137.4) 2429

Standards for Computer Output Microfilm (COM) for Archival Retention. (VR 440-01-137.5) 2433

Standards for Plats. (VR 440-01-137.6) 2435

Standards for Recorded Instruments. (VR 440-01-137.7) 2436

Standards for Paper for Permanent Circuit Court Records. (VR 440-01-137.8) 2437

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to Case Management for Mental Retardation Waiver Clients..

Case Management Services. (VR 460-03-3.1102) .. 2438

DEPARTMENT OF MINES, MINERALS AND ENERGY

Virginia Gas and Oil Board Regulations. (VR 480-05-22.2) 2441

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Virginia Energy Assistance Program. (VR 615-08-1) .. 2451

DEPARTMENT OF THE TREASURY (THE TREASURY BOARD)

Virginia Security for Public Deposits Act Regulations. (VR 640-02) 2453

VIRGINIA RACING COMMISSION

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Stewards. (VR 662-03-03) 2458

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian. (VR 662-03-04) 2461

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings. (VR 662-03-05) 2462

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses. (VR 662-04-01) 2464

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing. (VR 662-05-01) 2467

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing. (VR 662-05-03) 2472

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing. (VR 662-05-04) 2473

FINAL REGULATIONS

BOARD FOR BARBERS

Board for Barbers Regulations (REPEALED). (VR 170-01-1) 2474

Board for Barbers Regulations. (VR 170-01-1:1) 2474

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Community Diversion Program Standards. (VR 230-30-002) 2474

DEPARTMENT OF LABOR AND INDUSTRY

Boiler and Pressure Vessel Rules and Regulations. (VR 425-01-75) 2479

Virginia Occupational Safety and Health Standards for General Industry - The Control of Hazardous Energy (Lockout/Tagout) (1910.147). (VR 425-02-71) 2480

Virginia Occupational Safety and Health Standards for the Construction Industry - Safety Standards for Stairways and Ladders Used in the Construction Industry (1926.1050 through 1926-1060). (VR 425-02-79) 2482

Table of Contents

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to Obstetric and Pediatric Maximum Payments.

 Methods and Standards for Establishing Payment Rates - Other Types of Care. (VR 460-02-4.1920) 2484

 Methods and Standards for Other Types of Services: Obstetric and Pediatric Maximum Payments. (VR 460-03-4.1921) 2484

Home and Community Based Services for Technology Assisted Individuals. (VR 460-04-8.5) 2489

Public Participation Guidelines in the Formation and Development of Regulations. (VR 460-04-8.900) 2490

DEPARTMENT OF MINES, MINERALS AND ENERGY

Coal Surface Mining Reclamation Regulations. (VR 480-03-19) 2492

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Aid to Dependent Children - Earned Income Tax Credit (EITC) Disregard. (VR 615-01-38) 2498

EMERGENCY REGULATIONS

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment. (VR 245-02-01) 2499

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

Emergency Regulations of the Virginia Board of Historic Resources Governing Permits for the Archaeological Excavation of Human Remains. 2503

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Aid to Dependent Children - Elimination of Monthly Reporting (VR 615-01-37) 2505

STATE CORPORATION COMMISSION

ADMINISTRATIVE LETTERS

Effective Date of New § 38.2-508.1 of the Code of

Virginia. (91-5) 2508

Contingency Reserve Funding Level Required by the Rules Governing Group Self-Insurers of Liability Under the Virginia Worker's Compensation Act (Insurance Regulations 16). (91-7) 2509

MARINE RESOURCES COMMISSION

Opening of Deep Water Shoal, James River (Condemnation Areas 23 and 69). (VR 450-01-9102) 2510

Closure of All Public Oyster Grounds in the James River. (VR 450-01-9103) 2510

GOVERNOR

GOVERNOR'S COMMENTS

DEPARTMENT OF HEALTH

Regulations Governing the Virginia Medical Scholarship Program. (VR 355-40-04) 2511

Rules and Regulations for the Identification of Medically Underserved Areas in Virginia. (VR 355-40-05) 2511

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Maximum Obstetric and Pediatric Payments. (VR 460-03-1920) 2511

Home and Community Based Care Services for Technology Assisted Individuals. (VR 460-04-8.5) 2511

DEPARTMENT OF SOCIAL SERVICES

Virginia Energy Assistance Program. (VR 615-08-01) 2511

VIRGINIA RACING COMMISSION

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Participants. (VR 662-03-02) 2511

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Claiming Races. (VR 662-04-03) 2511

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent 2513

Table of Contents

GENERAL NOTICES

DEPARTMENT OF LABOR AND INDUSTRY

- Public Notice Regarding the Adoption of Federal OSHA Standards. 2527
- Public Notice Regarding the Extension of Administrative Stay to the General Industry Standard: Occupational Exposure to Formaldehyde. .. 2528

DIVISION OF LEGISLATIVE SERVICES

- Public Notice Regarding the Legislative Record. 2528

NOTICE TO STATE AGENCIES

- Notice of change of address. 2528
- Forms for filing material on dates for publication. ... 2528

ERRATA

CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

- Chesapeake Bay Preservation Area Designation and Management Regulations. (VR 173-02-01) 2528

STATE LOTTERY DEPARTMENT

- On-Line Game Regulations. (VR 447-02-2) 2529

CALENDAR OF EVENTS

EXECUTIVE

- Open Meetings and Public Hearings 2530

LEGISLATIVE

- Open Meeting and Public Hearings 2555

CHRONOLOGICAL LIST

- Open Meetings 2555
- Public Hearings 2557

Table of Contents

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.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Public Hearing Date: July 23, 1991 - noon.
(See Calendar of Events section for additional information)

Summary:

The proposed changes would require health care institutions as defined by § 9-156 of the Code of Virginia that are part of continuing care retirement centers, have licensed home for adult beds, or have licensed nursing home beds as part of a hospital, must segregate the patient care activities provided in its nursing home component from its nonpatient care activities when completing the report forms required by the council.

The proposed changes would also amend and update the section which deals with the annual charge survey conducted by the Virginia Health Services Cost Review Council. The proposed changes would reflect more accurately what information is to be collected from nursing homes and from hospitals.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;

2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;

3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;

4. For investor-owned institutions organized as proprietorships, partnerships, or S-corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carryforwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose

Proposed Regulations

principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Voluntary cost review organization" means a nonprofit association or other nonprofit entity which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1, et seq. of the Code of Virginia applied to their promulgation.

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in the Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III. COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health car

stitutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institutions without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV. VOLUNTARY COST REVIEW ORGANIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization, including evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or

Proposed Regulations

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under § 4.2.B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V. CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI. FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia, which shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times may be granted for extenuating circumstances upon a health care institution's written application for a 30-day extension. Such request for extension shall be filed no later than 120 days after the end of a health care institution's fiscal year. *Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.*

§ 6.2. Each health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council. The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. *Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.*

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall be received by the council within 10 days after the beginning of its respective applicable fiscal year or within 15 days of being notified by the council of its approval of the charges, whichever is later.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. Changes in charges which will have a minimal impact on revenues are exempt from this requirement.

§ 6.3.1. Each health care institution shall file annually, but no later than April 30, a survey of rates charged. The survey shall consist of up to 30 of the most frequently used services, including semiprivate and private room rates. Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. This information shall be received by the council from each hospital no later than April 30 of each year. The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the council. This information shall be provided to the council no later than March 31 of each year.

§ 6.3.2. Each hospital or any corporation that controls a hospital shall respond to a survey conducted by the council to determine the extent of commercial diversification by such hospitals in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof, the information specified in subdivision a through i below for each affiliate of such hospital or corporation, if any:

- a. The name and principal activity;
- b. The date of the affiliation;
- c. The nature of the affiliation;
- d. The method by which each affiliate was acquired or created;
- e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;
- f. The total assets;
- g. The total revenues;
- h. The net profit after taxes, or if not-for-profit, its excess revenues; and
- i. The net quality, or if not-for-profit, its fund balance.

§ 6.3.3. The information specified in § 6.3.2 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted.

§ 6.3.4. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in § 6.3.2 shall complete and return the survey to the council by the 31st day of August of each calendar year or 120 days after the hospital's fiscal year end, whichever is later, in which the survey is required to be submitted.

§ 6.3.5. Each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

§ 6.4. All filings prescribed in § 6.1, § 6.2 and § 6.3.2 of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. During the year of July 1, 1989, through June 30, 1990, each nursing home and certified nursing facility shall pay a fee of 7 cents per adjusted patient day when it files its annual report in order to comply with subdivisions A1 and A2 of § 9-159 of the Code of Virginia. Following June 30, 1990, all nursing homes and certified nursing facilities shall submit payment of the filing fees in the amount and manner as all other health care institutions.

§ 6.7. A late charge of \$10 per working day shall be paid to the council by a health care institution that files its budget or annual report past the due date.

§ 6.8. A late charge of \$50 shall be paid to the council by

Proposed Regulations

the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:2 or file the audited consolidated financial statement required by § 6.3:5 or both.

§ 6.10. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:1.

PART VII. WORK FLOW AND ANALYSIS.

§ 7.1. The annual report data filed by health care institutions as prescribed in § 6.1 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall receive a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII. PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.3:1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with

Proposed Regulations

third-party payors such as Blue Cross/Blue Shield, commercial insurers, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.8. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

NOTICE: The forms used in administering the Virginia Health Services Cost Review Council Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Virginia Health Services Cost Review Council, 805 East Broad Street, 9th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Historical Submission for Acute Care Facilities

Budget Submission for Acute Care Facilities

Historical Submission for Long Term Care Facilities

Budget Submission for Long Term Care Facilities

Historical Submission for Outpatient Surgical Hospitals

Budget Submission for Outpatient Surgical Hospitals

VIRGINIA STATE LIBRARY AND ARCHIVES (LIBRARY BOARD)

Title of Regulation: VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: June 18, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

This proposed regulation governs the reproduction of records by microphotography process, and will provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming public records of permanent value.

The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital

records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.

PART I. AUTHORITY.

§ 1.1. These standards are established by the Library Board in accordance with the provisions of the Virginia Public Records Act, Chapter 7 (§ 42.1-76 et seq.) of Title 42 of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all records that have been appraised as being archival: having administrative, legal, fiscal, or historical value as defined in § 42.1-77 of the Code of Virginia to warrant their permanent preservation. Such determinations are included in the officially approved retention and disposition schedules. When the informational contents of such archival records are to be maintained on microfilm, the silver-gelatin camera microfilm produced by source document methods is to be considered the permanent archival security copy. For Computer Output-Microfilm, refer to Standards For Computer Output-Microfilm (COM) For Archival Retention. Thermally processed or TEP film shall not be used, unless a wet processed silver-gelatin copy meeting this standard is generated. The camera microfilm shall not be used for reference purposes. Whenever the original record is recommended for disposal, authorization will be given after the camera microfilm has been inspected, approved and accessioned by the ~~Records Branch~~ *Information Imaging Branch*, Virginia State Library and Archives (VSL&A).

PART III. STANDARDS.

§ 3.1. The microfilming, processing and storage of archival records shall comply with the following standards approved by the American National Standards Institute (ANSI), Association for Information and Image Management (AIIM), and the federal government *International Standards Organization (ISO)*.

ANSI:

IT 9.1 - 1989

Imaging Media (Film) - Silver-Gelatin Type - Specifications for Stability.

IT 9.2 - 1988

Imaging Media - Photographic Processing Films, Plates, and Papers - Filing Enclosures and Storage Containers.

Proposed Regulations

IT 9.11 - 1991

Photography (Film) - Processing Safety Photographic Film - Storage.

PH 1.25 - 1984 1989

Photography (Film) - Safety Photographic Film.

PH 1.28 - 1984

Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base.

PH 1.41 - 1984

Specifications for Photographic Film for Archival Records Silver-Gelatin Type, on Polyester Base.

PH 1.43 - 1983 1985

Photography (Film) Storage of Processed Safety Film.

PH 1.51 - 1983

Photography (Film) - Micrographic Sheet and Roll Film-Dimensions.

PH 1.53 - 1984

Photography (processing) - Processed Films, Plates, and Papers - Filing Enclosures and Containers for Storage.

PH 2.19 - 1976 1986

Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

PH 4.8 - 1985

Photography (chemicals) - Residual Thiosulfate and other Chemicals in Films, Plates and Papers - Determination and Measurement.

Y14.2M - 1987

Engineering Drawing and Related Documentation Practices - Line Conventions and Lettering

ANSI/AIIM:

ANSI/AIIM MS 8-1988

Image Mark (Blip) Used in Image Mark Retrieval Systems.

ANSI/AIIM MS14-1988

Specifications for 16 & 35mm Microfilms in Roll Form.

ANSI/AIIM MS19 - 1978 1987

Identification of Microforms.

ANSI/AIIM MS23 - 1983 1990

Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver Gelatin Microfilm of Documents (ANSI/AIIM MS23 - 1983).

ANSI-AIIM MS42 - 1989

Recommended Practice for the Expungement, Deletion, Correction or Amendment of Records on

Microforms.

ANSI/AIIM MS45 - 1990

Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.

ANSI/AIIM MS48 - 1990

Recommended Practice for Microfilming Public Records on Silver-Gelatin Film.

ANSI/ISO 3334 - 1979

Microcopying: ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction.

AIIM TR2 - 1980 1991

Glossary of Micrographics.

ISO 3334 - 1989

Microcopying: ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction.

AIIM TR6 - 1985

Guidelines for Microfilming Public Records on Silver Halide Film.

Federal Standards No. 125 D (January 24, 1977)

Basic United States Government Micrographic Standards and Specifications (6th edition, January, 1983)

PART IV. MICROFILM STOCK.

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of archival records shall be safety-based archival record film as specified in American National Standards Institute (ANSI) PH1.25 - 1984 Photography (film) - Safety Photographic Film; PH 1.28 - 1984 Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base; PH 1.41 - 1984 Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base PH1.25 - 1989 Photography (film) Specifications for Safety Photographic Film; IT9.1-1989 Imaging Media (Film) - Silver-Gelatin type - Specifications for Stability.

PART V. MICROFILMING PROCEDURES.

§ 5.1. Procedures to be followed in establishing and operating a micrographic program for filming archival records shall conform to standards set down in ANSI/AIIM MS23 - 1983 1990 Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail shown on the originals. Microimages of the records shall b

arranged, identified and indexed so that any individual document or component of the records can be easily located. *All engineering drawings submitted for microfilming should conform to ANSI Y14.2M - 1987.*

§ 5.3. All densities shall be as consistent as possible throughout the microform. The background density of the camera negative microfilm shall be within the ranges shown on the following chart when measured on a blank area of the filmed document.

TABLE 1 BACKGROUND DENSITIES

Classification	Description of Documents	Density
Group 1	High quality, high contrast documents or printed material and black typing; fine line originals, black opaque pencil writing and documents with small high contrast printing; Pencil and ink drawings, faded printing and very small printing.	1.00-1.20
Group 2	Low contrast manuscripts and drawings; graph paper with pale, fine-colored lines; letters typed with a worn ribbon; poorly printed, faint documents; and positive appearing photostats and blueprints.	0.80-1.00

Background density on positive appearing camera microfilm shall be no higher than 0.35. The base-plus-fog density of unexposed, processed, clear-base film must not exceed 0.10. When a tinted base film is used, the density shall not exceed 0.3. Measurements are made using a densitometer calibrated with a step tablet provided by the ~~Records Branch~~, Virginia State Library *Information Imaging Branch, VSL&A*. In certain instances, some poor contrast documents may require lower densities in order to make the entire image legible and reproducible as stated in ANSI/AIIM MS23 - ~~1983~~ 1990. *Mixed quality documents should be filmed at the lower densities.* A system of inspection and quality control to ensure compliance with this standard shall be established and consistently maintained in conformance with ANSI/AIIM MS23 - ~~1983~~ 1990 Practice for Operational Procedures/Inspection and Quality Control of First-Generation, Silver-Gelatin Microfilm of Documents.

§ 5.4. A minimum resolution of 90 lines per millimeter shall be obtained regardless of reduction ratio used or the type of camera used and the 4.0 pattern shall be resolved *for 16mm microfilm and the 6.3 pattern for 35mm microfilm*. This shall be determined by the line count and direction method using the National Bureau of Standards Standard Reference Material 1010a (ANSI and ISO Test Chart No. 2) for planetary cameras and the AIIM MS-113 Test Chart for rotary cameras. *No other test charts shall be used unless approved by the VSL&A.* The test charts are composed of two groups of five parallel line pairs, the line pairs in the two groups being oriented perpendicular to one another, and each pattern is numbered and progressively reduced. Five vertical and five horizontal

line pairs shall be clearly defined in both directions. The resolution test chart shall be photographed at the beginning and at the end of each reel of camera microfilm at least three times in succession. *NOTE: Resolution of duplicates should generally be only one pattern lower than the original from which the duplicate was reproduced. Pattern resolved times the reduction ratio equals lines per millimeter.*

§ 5.5. ~~Microform identification declaration certificates in conformance with ANSI/AIIM MS19 - 1978 Identification of Microforms shall be exposed at the beginning and end of each reel of microfilm. These certificates shall conform to ANSI/AIIM MS19 - 1987 Identification of Microforms. The targets shall provide documentation which ensures that the microfilm copy can be substituted in place of the original document. Minimum documentation should include the following targets in the order listed: (i) resolution chart (filmed three times), (ii) plain white sheet of paper, (iii) reel number, (iv) agency of origin, (v) record series, (vi) custodian's certificate, (vii) records to be filmed, (viii) operator's certificate, (ix) end of reel or continued on reel #, (x) resolution target (three times). MS23 has additional technical targets.~~

PART VI. PROCESSING.

§ 6.1. Processors shall be certified by the manufacturer as capable of producing archival quality processed film as required by ANSI PH 4.8 - 1985 Photography (chemicals) - Residual Thiosulfate and other Chemicals in Films, Plates and Papers - Determination and Measurement.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm shall have a concentration of greater than zero but shall not exceed 0.7 micrograms per square centimeter .014 gm² in a clear film area. *This concentration is different for fine-grain archival films, see ANSI 9.1 - 1988 for these settings.* Film processed in-house shall be tested and certified once every two weeks or as deemed necessary by the ~~Records Branch, Virginia State Library~~ *Information Imaging Branch, Virginia State Library and Archives*. Processing services performed off-site shall include provisions requiring that the methylene blue test shall be performed every 24 hours. ~~Records documenting the testing shall be maintained.~~

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the ~~Records Branch, Virginia State Library~~ *Information Imaging Branch, VSL&A*. The certificate shall contain the name of the agency whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, the processor used, and the signature of the person who did the test. *Records documenting the daily off-site testing shall be maintained and provided to the Information Imaging Branch, Virginia State Library and Archives, at least once a month.*

Proposed Regulations

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, must be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other contaminants shall not be allowed in microfilming areas.

§ 7.3 The camera microfilm shall be handled only during the inspection procedure and when generating an intermediate master. In systems generating two camera microfilms, one shall be designated as the archival camera microfilm and shall not be used for duplication, loaded into a cartridge or inserted in a viewer. In systems generating a single camera microfilm, the film shall be used only for the production of an intermediate master.

§ 7.4. Splicing is not permitted, except at the beginning of the reel or for a court ordered expungement conducted in accordance with MS42. An unexposed area of film shall be used between the splice and the beginning titling targets. Ultrasonic splicing is recommended for polyester film.

PART VIII. STORAGE.

§ 8.1. Camera microfilm shall be verified for completeness and accuracy, then transferred promptly to the ~~Records Branch, Virginia State Library Information Imaging Branch, VSL&A~~, for storage. Each film container shall be labeled with the following: office of origin, records series, reel number, inclusive information, *density and resolution readings*. Camera microfilm shall be stored according to ~~ANSI PH 1.43 - 1983 Photography (Film) Storage of Processed Safety Film and ANSI PH 1.53 - 1985 Photography (processing) - Processed Films, Plates and Papers - Filing Enclosures and Containers for Storage. PH 1.43 - 1985 Photography (Film) Storage of Processed Safety Film and IT 9.2 1989 Imaging Media - Photographic Processed Films, Plates, and Papers - Filing Enclosures and Storage Containers.~~

§ 8.2. At approximately two year intervals, a ~~1-0%~~ sample of randomly selected reels of microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. The guidelines in the National Bureau of Standards Handbook 96 Inspection of Processed Photographic Record Film for Aging Blemishes shall be followed. *sample of randomly selected reels of microfilm in storage shall be inspected according to MS45 - 1990 Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.*

* * * * *

Title of Regulation: VR 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: June 18, 1991 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The Library Board proposes to amend regulations governing the recording of deeds and other writings by a procedural microphotographic process. This regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming deeds and other writings by a procedural microphotographic process.

The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

VR 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.

PART I. AUTHORITY.

§ 1.1. These standards are established by the Library Board in accordance with the provisions of the Virginia Public Records Act, Chapter 7 (§ 42.1-76 et seq.) of Title 42.1 (§ 42.1-76 et seq.) of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all records that are being recorded on microfilm in a procedural microphotographic process as stated in §§ 17-59, 17-60, 17-60.1, 17-68, 17-70, 17-70.1 of the Code of Virginia. When the informational contents of such records are to be maintained on microfilm, the silver gelatin camera microfilm produced by source document methods is to be considered the permanent archival security copy. The camera microfilm shall not be used for reference purposes. The second camera negative or an intermediate master of the camera negative shall be used to generate a working copy. The minimum level of indexing required with a procedural microphotographic recording system for deeds, in addition to statutory indexing requirements, is the inclusion in the index of a column referencing the deed book and page

number of the original instrument affected by a subsequently recorded document, and a column for a brief description of the property affected. Advice and assistance in the implementation and operation of a procedural microfilm recording system will be provided by the staff of the ~~Records Branch~~ *Information Imaging Branch*, Virginia State Library and Archives (VSL&A), in accordance with the Public Records Act, § 42.1-83 of the Code of Virginia.

PART III. STANDARDS.

§ 3.1. The microfilming, processing and storage of archival records shall comply with the following standards approved by the American National Standards Institute (ANSI), Association for Information and Image Management (AIIM), and the ~~federal~~ *government International Standards Organization (ISA)*

ANSI:

IT 9.1 - 1989
Imaging Media (Film) - Silver-Gelatin Type - Specifications for Stability.

IT 9.2 - 1988
Imaging Media - Photographic Processing Films, Plates, and Papers - Filing Enclosures and Storage Containers.

IT 9.11 - 1991
Photography (Film) - Processed Safety Photographic Film - Storage.

~~PH 1.25 - 1984~~ *1989*
Photography (Film) - Safety Photographic Film.

~~PH 1.28 - 1984~~
Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base.

~~PH 1.41 - 1984~~
Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base.

~~PH 1.43 - 1983~~ *1985*
Photography (Film) Storage of Processed Safety Film.

~~PH 1.51 - 1983~~
Photography (Film) - Micrographic Sheet and Roll Film-Dimensions.

~~PH 1.53 - 1984~~
Photography (processing) - Processed Films, Plates and Papers - Filing Enclosures and Containers for Storage.

~~PH 2.19 - 1976~~ *1986*
Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

~~PH 4.8 - 1985~~
Photography (chemicals) - Residual Thiosulfate and other Chemicals in Films, Plates and Papers - Determination and Measurement.

~~Y14.2M - 1987~~
Engineering Drawing and Related Documentation Practices - Line Conventions and Lettering.

~~ANSI/AIIM MS8 - 1979~~ *1988*
Document Mark (BLIP) Used in Image Mark Retrieval Systems.

~~ANSI/AIIM MS14 - 1988~~
Specifications for 16 & 35mm Microfilms in Roll Form.

~~ANSI/AIIM MS19 - 1978~~ *1987*
Identification of Microforms.

~~ANSI/AIIM MS23 - 1983~~ *1990*
Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver Gelatin Microfilm of Documents.

~~ANSI/ISO 3334 - 1979~~
Microcopying: ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction.

~~ANSI/AIIM MS42 - 1989~~
Recommended Practice for the Expungement, Deletion, Correction or Amendment of Records on Microforms.

~~ANSI/AIIM MS45 - 1990~~
Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.

~~ANSI/AIIM MS48 - 1990~~
Recommended Practice for Microfilming Public Records on Silver-Gelatin Film.

~~AIIM TR2 - 1980~~ *1991*
Glossary of Micrographics.

~~ISO 3334 - 1989~~
Microcopying: ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction.

~~AIIM TR6 - 1985~~
Guidelines for Microfilming Public Records on Silver Halide Film.

Federal standards No. 125 D (January 24, 1977)

Basic United States Government Micrographic Standards and Specifications (6th edition, January, 1983)

PART IV. MICROFILMING STOCK.

Proposed Regulations

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of archival records shall be safety-based archival record film as specified in American National Standards Institute (ANSI) PH1.25 - 1984 *Photographic (film) Safety Photographic Film*; PH 1.28 - 1984 *Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base*; PH 1.41 - 1984 *Specifications for Photographic Film For Archival Records, Silver-Gelatin Type, on Polyester Base* 1989 *Photography (Film) Specifications for Safety Photographic Film*; IT9.1 - 1989 *Imaging Media (Film) - Silver-Gelatin Type - Specifications for Stability*.

PART V. MICROFILMING PROCEDURES.

§ 5.1. Procedures to be followed in establishing and operating a procedural microphotographic recording system shall conform to standards set down in ANSI/AIIM MS23 - 1983 1990 *Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents*.

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail shown in the originals. Microimages of the records shall be arranged so that each numbered original page is filmed in position 1B (comic mode) and coded for image count retrieval with a document mark complying with ANSI/AIIM MS8 - 1979 1988 *Document Mark (BLIP) used in Image Mark Retrieval Systems*. *All plats or records instruments submitted for microfilming shall conform to the State Standards VR 440-01-137.6 Standard for Plats and VR 440-01-137.7 Standard for Recorded Documents*.

§ 5.3. All densities shall be as consistent as possible throughout the microform. The background density of the camera negative microfilm shall be within the ranges shown on the following chart when measured on a blank area of the filmed document.

TABLE 1 BACKGROUND DENSITIES

Classification	Description of Documents	Density
Group 1	High quality, high contrast documents or printed materials and black typing; fine line originals black opaque pencil opaque pencil writing and documents with small high-contrast printing; pencil and ink drawings, faded printing and very small printing.	1.00-1.20
Group 2	Low-contrast manuscripts and drawings; graph paper graph paper with pale, fine-colored lines; letters typed with a worn ribbon; poorly printed, faint documents; and positive appearing photostats and blueprints.	0.80-1.00

Background density on positive appearing camera

microfilm shall be no higher than 0.35. The base-plus-fog density of unexposed, processed, clear-base film shall not exceed 0.10. When a tinted base film is used, the density shall not exceed 0.3. Measurements are made using a densitometer calibrated with a step tablet provided by the Records Branch, Virginia State Library Information Imaging Branch, VSL&A. In certain instances, some poor contrast documents may require lower densities in order to make the entire image legible and reproducible as stated in ANSI/AIIM MS23 - 1983 1990. *Mixed quality documents should be filmed at the lower densities*. A system of inspection and quality control to ensure compliance with this standard shall be established and consistently maintained in conformance with ANSI/AIIM MS23 - 1983 1990 *Practice for Operational Procedures/Inspection and Quality Control of First-Generation, Silver-Gelatin Microfilm of Documents*.

§ 5.4. A minimum resolution of 120 lines per millimeter shall be obtained regardless of reduction ratio used or the type of camera used and the 5.0 pattern must be resolved for 16mm microfilm. This shall be determined by the line count and direction method using the National Bureau of Standards Standard Reference Material 1010a (ANSI and ISO Test Chart No. 2) for planetary cameras and the AIIM MS-113 Test Chart for rotary cameras. *No other test charts shall be used unless approved by the VSL&A*. The test charts are composed of two groups of five parallel line pairs, the line pairs in the two groups being oriented perpendicular to one another, and each pattern is numbered and progressively reduced. Five vertical and five horizontal line pairs shall be clearly defined in both directions. The resolution chart shall be photographed at the beginning and at the end of each reel of camera microfilm at least three times in succession. *NOTE: Resolution of duplicates should generally be only one pattern lower than the original from which the duplicate was reproduced. Pattern resolved times the reduction ratio equals lines per millimeter*.

§ 5.5. Microform identification declaration certificates in conformance with ANSI/AIIM MS19 - 1978 *Identification of Microforms* shall be exposed at the beginning and end of each reel or microfilm. *These certificates shall conform to ANSI/AIIM MS19 - 1987 Identification of Microforms*. *The targets shall provide documentation which ensures that the microfilm copy can be substituted in place of the original document. Minimum documentation should include the following targets in the order listed: (i) resolution chart (filmed three times), (ii) plain white sheet of paper, (iii) reel number, (iv) agency of origin, (v) record series, (vi) custodian's certificate, (vii) records to be filmed, (viii) operator's certificate, (ix) end of reel or continued on reel #, (x) resolution target (three times). MS23 has additional technical targets*.

PART VI. PROCESSING.

§ 6.1. Processors shall be certified by the manufacturer as capable of producing archival quality processed film

required by ANSI PH 4.8 - 1985 Photography (chemicals) - Residual Thiosulfate and other Chemicals in Films, Plates and Papers - Determination and Measurement.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm must have a concentration of greater than zero but shall not exceed 0.7 micrograms per square centimeter .014 g/m² in a clear film area. *This concentration is different for fine-grain archival films, see ANSI9.1 - 1988 for these settings.* Film processed in-house shall be tested and certified once every two weeks or as deemed necessary by the ~~Records Branch~~ *Information Imaging Branch*, Virginia State Library and Archives. Processing services performed off-site shall include provisions requiring that the methylene blue test shall be performed every 24 hours. ~~Records documenting the testing shall be maintained.~~

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the ~~Records Branch, Virginia State Library~~ *Information Imaging Branch, VSL&A*. The certificate shall contain the name of the agency whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, the processor used and the signature of the person who did the test. *Records documenting the daily off-site testing shall be maintained and provided to the Information Imaging Branch, Virginia State Library and Archives, at least once a month.*

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, shall be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other contaminants shall not be allowed in microfilming areas.

§ 7.3. The camera microfilm shall be handled only during the inspection procedure and when generating an intermediate master. In systems generating two camera microfilms, one shall be designated as the archival camera microfilm and shall not be used for duplication, loaded into a cartridge or inserted in a viewer. In systems generating a single camera microfilm, the film shall be used only for the production of an intermediate master. All distribution copies will be generated from either the second camera microfilm or from the intermediate master retained by the clerk of the circuit court.

§ 7.4. Ultrasonic splicing is preferred for a polyester-based camera negative. The individual film sequence shall be discarded when defects obliterating or obscuring information are noted. Splicing within the individual film sequence shall not be allowed. The refilming of the entire

individual film sequence is required.

PART VIII. STORAGE.

§ 8.1. Camera microfilm shall be verified for completeness and accuracy, then transferred promptly to the ~~Records Branch, Virginia State Library, Information Imaging Branch, VSL&A~~, for storage. Each film container shall be labeled with the following: office of origin, records series, reel number, inclusive information, *density and resolution readings*. Camera microfilm shall be stored according to ANSI PH 1.43- ~~1988~~ *1985* Photographic (Film) Storage of Processed Safety Film and ANSI PH ~~1.53~~ *Photography (processing) - Processed Films, Plates, and Papers - Filing Enclosures and Containers for Storage IT 9.2 - 1989* *Imaging Media - Photographic Processed Films, Plates, and Papers - Filing Enclosures and Storage Containers*.

§ 8.2. At approximately two-year intervals, a ~~1-0%~~ *1-0%* sample of randomly selected reels of microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. The guidelines in the National Bureau of Standards Handbook 96 *Inspection of Processed Photographic Record Film for Aging Blemishes* shall be ~~followed~~ *sample of randomly selected reels of microfilm in storage shall be inspected according to MS45 - 1990 Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration*.

* * * * *

Title of Regulation: VR 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases of the Clerks of the Circuit Courts Prior to Disposition.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: June 18, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

This proposed regulation governs the microfilming of ended law, chancery, and criminal cases and the reproduction of records by microphotography; and provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law, chancery, and criminal cases.

The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no

Proposed Regulations

additional impact to state agencies, local government entities, or the public.

VR 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition.

PART I. AUTHORITY.

§ 1.1. These standards are established by the Library Board in accordance with the provisions of the Virginia Public Records Act, Chapter 7 (§ 42.1-78 et seq.) of Title 42 of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all ended records, papers, or documents pertaining to law, chancery, and criminal cases which have been ended for a period of three years or longer as stated in § 17-47.4 of the Code of Virginia. When the informational contents of such records are to be maintained on microfilm, the silver-gelatin camera microfilm produced by source document methods is to be considered the permanent archival security copy. Thermally processed or TEP film shall not be used, unless a wet processed silver-gelatin copy meeting this standard is generated. The camera microfilm shall not be used for reference purposes. Whenever the original record is recommended for disposal, authorization will be given after the camera microfilm has been inspected, approved and accessioned by the ~~Records Branch~~ *Information Imaging Branch, Archives and Records Division*, Virginia State Library and Archives. All documents in the ended case files should be microfilmed in the sequence established by the office from which the records originated. The preservation of original document order is essential to ensure that the microform is an adequate substitute for the original document and is admissible as evidence. Recommendation to destroy the original records will be provided after the microfilm of the case files is accessioned, examined and approved by the staff of the ~~Records Branch~~ *Information Imaging Branch*, Virginia State Library and Archives. Advice and assistance in the implementation and operation of the disposal microfilm system will be provided by the staff of the ~~Records Branch~~ *Information Imaging Branch*, Virginia State Library and Archives, in accordance with the Virginia Public Records Act, § 42.1-83 of the Code of Virginia.

PART III. STANDARDS.

§ 3.1. The microfilming, processing and storage of archival records shall comply with the following standards approved by the American National Standards Institute (ANSI), Association for Information and Image Management (AIIM), and the federal government *International Standards Organization (ISO)*.

ANSI:

IT 9.1 - 1989

Imaging Media (Film) - Silver-Gelatin Type - Specifications for Stability.

IT 9.2 - 1988

Imaging Media - Photographic Processed Films, Plates, and Papers - Filing Enclosures and Storage Containers.

IT 9.11 - 1991

Photography (Film) - Processed Safety Photographic Film - Storage.

PH 1.25 - 1984 1989

Photography (Film) - Safety Photographic Film.

PH 1.28 - 1984

Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base.

PH 1.41 - 1984

Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base.

PH 1.43 - 1983 1985

Photography (Film) Storage of Processed Safety Film.

PH 1.51 - 1983

Photography (Film) - Micrographic Sheet and Roll Film - Dimensions.

PH 1.53 - 1984

Photography (processing) - Processed Films, Plates, and Papers - Filing Enclosures and Containers for Storage.

PH 2.19 - 1976 1986

Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

PH 4.8 - 1985

Photography (chemicals) - Residual Thiosulfate and other Chemicals in Films, Plates and Papers - Determination and Measurement.

Y14.2M - 1987

Engineering Drawing and Related Documentation Practices - Line Conventions and Lettering.

ANSI/AIIM MS8 - 1988

Image Mark (Blip) Used in Image Mark Retrieval Systems.

ANSI/AIIM MS14 - 1988

Specifications for 16 & 35 mm Microfilms in Roll Form.

ANSI/AIIM MS19 - 1978 1987

Identification of Microforms.

ANSI/AIIM MS23 - 1983 1990

Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

ANSI/AIIM MS42 - 1989

Recommended Practice for the Expungement, Deletion, Correction or Amendment of Records on Microforms.

ANSI/AIIM MS45 - 1990

Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.

ANSI/AIIM MS48 - 1990

Recommended Practice for Microfilming Public Records on Silver-Gelatin Film.

ANSI/ISO 3334 - 1979

International Standard Microcopying; ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction; ANSI/ISO 3334 - 1979.

AIIM TR2 - 1989 1991

Glossary for Micrographics.

ISO3334 - 1989

Microcopying; ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction.

AIIM TR6 - 1985

Guidelines for Microfilming Public Records on Silver Halide Film.

Federal Standards No. 125 D (January 24, 1977)

Basic United States Government Micrographic Standards and Specifications (6th edition, January, 1983)

**PART IV.
MICROFILM STOCK.**

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of archival records shall be safety-based archival record film as specified in American National Standards Institute (ANSI) PH1.25 - 1984 *Photography (film) Safety Photographic Film*; PH1. 28 - 1984 *Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base*; PH1. 41 - 1984 *Specifications for Photographic Film For Archival Records, Silver-Gelatin Type, on Polyester base 1989 Photography (Film) Specifications for Safety Photographic Film*; IT9.1 - 1989 *Imaging Media (Film) - Silver-Gelatin type - Specifications for Stability*.

**PART V.
MICROFILMING PROCEDURES.**

§ 5.1. Procedures to be followed in establishing and operating a micrographic program for filming archival

records shall conform to standards set down in ANSI/AIIM MS23 - 1983 1990 Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail shown on the originals. Microimages of the records shall be arranged, identified and indexed so that any individual document or component of the records can be easily located. *All engineering drawings submitted for microfilming should conform to ANSI Y14.2M - 1987.*

§ 5.3. All densities shall be as consistent as possible throughout the microform. The background density of the camera negative microfilm shall be within the ranges shown on the following chart when measured on a blank area of the filmed document.

TABLE 1 BACKGROUND DENSITIES

Classification	Description of Documents	Density
Group 1	High quality, high contrast documents or printed material and black typing; fine line originals, black opaque pencil writing and documents with small high contrast printing; Pencil and ink drawings, faded printing and very small printing.	1.00-1.20
Group 2	Low contrast manuscripts and drawings; graph paper with pale, fine-colored lines, letters typed with a worn ribbon; poorly printed, faint documents; and positive appearing photostats and blueprints.	0.80-1.00

Background density on positive appearing camera microfilm shall be no higher than 0.35. The base-plus-fog density of unexposed, processed, clear-base film must not exceed 0.10. When a tinted base film is used, the density shall not exceed 0.3. Measurements are made using a densitometer calibrated with a step tablet provided by the Records Branch, Virginia State Library Information Imaging Branch, VSL&A. In certain instances, some poor contrast documents may require lower densities in order to make the entire image legible and reproducible as stated in ANSI/AIIM MS23 - 1983 1990. *Mixed quality documents should be filmed at the lower densities.* A system of inspection and quality control to ensure compliance with this standard must be established and consistently maintained in conformance with ANSI/AIIM MS23- 1983 1990 Practice for Operational Procedures/Inspection and Quality Control of First-Generation, Silver-Gelatin Microfilm of Documents

§ 5.4. A minimum resolution of 90 lines per millimeter shall be obtained regardless of reduction ratio used or the type of camera used and the 4.0 pattern must be resolved for 16mm microfilm and the 6.3 pattern for 35mm microfilm. This shall be determined by the line count and direction method using the National Bureau of Standards

Proposed Regulations

Standard Reference Material 1010a (ANSI and ISO Test Chart No. 2) for planetary cameras and the AIIM MS - 113 Test Chart for rotary cameras. *No other test charts shall be used unless approved by the VSL&A.* The test charts are composed of two groups of five parallel line pairs, the line pairs in the two groups being oriented perpendicular to one another and each pattern is numbered and progressively reduced. Five vertical and five horizontal line pairs shall be clearly defined in both directions. The resolution test chart shall be photographed at the beginning and at the end of each reel of camera microfilm at least three times in succession. *NOTE: Resolution of duplicates should generally be only one pattern lower than the original from which the duplicate was reproduced. Pattern resolved times the reduction ratio equals lines per millimeter.*

§ 5.5. Microform identification declaration certificates in conformance with ANSI/AIIM MS10 - 1978 Identification of Microforms shall be exposed at the beginning and end of each reel of microfilm. These certificates shall conform to ANSI/AIIM MS19 - 1987 Identification of Microforms. The targets shall provide documentation which ensures that the microfilm copy can be substituted in place of the original document. *Minimum documentation should include the following targets in the order listed: (i) resolution chart (filmed three times), (ii) plain white sheet of paper, (iii) reel number, (iv) agency of origin, (v) record series, (vi) custodian's certificate, (vii) records to be filmed, (viii) operator's certificate, (ix) end of reel or continued on reel #, and (x) resolution target (three times). MS23 has additional technical targets.*

§ 5.6. A microfilm copy of relevant indexes and finding aids shall be deposited in the archives when microfilmed. Unitized microform storage and retrieval systems that require supplemental indexing techniques should provide on the archives camera film the access code structure used for retrieval in the system.

PART VI. PROCESSING.

§ 6.1. Processors shall be certified by the manufacturer as capable of producing archival quality processed film as required by ANSI PH 4.8 - 1985 Photography (chemicals) Residual Thiosulfate and other Chemicals in Films, Plates and Papers Determination and Measurement.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm must have a concentration of greater than zero but shall not exceed 0.7 micrograms per square centimeter .014 gm² in a clear film area. *This concentration is different for fine-grain archival films, see ANSI9.1 - 1988 for these settings.* Film processed in-house shall be tested and certified once every two weeks or as deemed necessary by the Records Branch, Virginia State Library Information Imaging Branch, Virginia State Library and Archives. Processing services performed off-site shall include provisions requiring that the methylene blue test

shall be performed every 24 hours. Records documenting the testing shall be maintained.

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the Records Branch, Virginia State Library Information Imaging Branch, VSL&A. The certificate shall contain the name of the agency whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, processor used, and the signature of the person who did the test. *Records documenting the daily off-site testing shall be maintained and provided to the Information Imaging Branch, Virginia State Library and Archives, at least once a month.*

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, must be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other contaminants shall not be allowed in microfilming areas.

§ 7.3. The camera microfilm shall be handled only during the inspection procedure and when generating an intermediate master. In systems generating two camera microfilms, one shall be designated as the archival camera microfilm and shall not be used for duplication, loaded into a cartridge or inserted in a viewer. In systems generating a single camera microfilm, the film shall be used only for the production of an intermediate master.

§ 7.4. If an error is detected in which any information is obscured, the entire defective case file must be rephotographed and spliced. *Splicing is not permitted, except at the beginning of the reel or for a court ordered expungement conducted in accordance with MS42.* An exposed area of film must be used between the splice and the beginning of the tilling targets. Ultrasonic splicing is recommended for polyester film.

PART VIII. STORAGE.

§ 8.1. Camera microfilm shall be verified for completeness and accuracy, then transferred promptly to the Records Branch, Virginia State Library Information Imaging Branch, VSL&A, for storage. Each film container shall be labeled with the following: office of origin, records series, reel number, inclusive information, density and resolution readings. Camera microfilm shall be stored according to ANSI PH 1.43 - 1983 Photography (Film) Storage of Processed Safety Film and ANSI PH 1.53 - 1984 Photography (processing) Processed Films, Plates, and Papers Filing Enclosures and Containers for Storage 1985 Photography (Film) Storage of Processed Safety Film ar

Proposed Regulations

IT 9.2 - 1989 Imaging Media - Photographic Processed Films, Plates, and Papers - Filing Enclosures and Storage Containers .

§ 8.2. At approximately two-year intervals, a 1-0% sample of randomly selected reels of microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. The guidelines in the National Bureau of Standards Handbook 96 Inspection of Processed Photographic Record Film for Aging Blemishes shall be followed sample of randomly selected reels of microfilm in storage shall be inspected according to MS45 - 1990 Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Detrioration .

* * * * *

Title of Regulation: VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: June 18, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

This proposed regulation governs the reproduction of records by any microphotography process, and provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer-output microfilm (COM) generated of public records of permanent value.

The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.

PART I. AUTHORITY.

§ 1.1. These standards are established by the Library Board in accordance with the provisions of the Virginia Public Records Act, Chapter 7 (§ 42.1-76 et seq.) of Title 42.1 (§ 42.1-76 et seq.) of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all records generated on computer-output microfilm (COM) that have been appraised as archival, having administrative, legal, fiscal or historical value as defined in § 42.1-77 of the Code of Virginia, to warrant their permanent preservation. Such determinations are included in the officially approved retention and disposition schedules. When such archival records are to be maintained on microfilm, the silver halide *gelatin* camera microfilm is to be considered the permanent archival security copy. Thermally processed film shall not be used unless a wet processed silver-gelatin microfilm copy is generated and preserved as the archival camera microfilm. The camera microfilm shall not be used for reference purposes and shall be inspected, approved and accessioned by the Records Branch Information Imaging Branch, Archives and Records Division, Virginia State Library and Archives .

PART III. STANDARDS.

§ 3.1. Permanent records generated on COM shall comply with the following standards approved by the Association for Information and Image Management:

ANSI:

IT9.1 - 1989

Imaging Media (Film) - Silver-Gelatin Type - Specifications for Stability.

IT9.2 - 1988

Imaging Media - Photographic Processed Films, Plates, and Papers - Filing Enclosures and Storage Containers.

IT9.11 - 1991

Photography (Film) - Processed Safety Photographic - Storage.

PH 1.25 - 1984 1989

Photography (Film) - Safety Photographic Film.

PH 1.28 - 1984

Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base.

PH 1.41 - 1983

Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base.

PH 1.43 - 1983 1985

Photography (Film) Storage of Processed Safety Film.

PH 1.51 - 1983

Photograph (Film) - Micrographic Sheet and Roll Film Films - Dimensions.

PH 1.53 - 1984

Photography (processing) Processed Films, Plates, and Papers - Filing Enclosures and Containers for Storage.

Proposed Regulations

PH 2.19 - 1976 1986

Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

PH 4.8 - 1985

Photography (chemicals) - Residual Thiosulfate and other Chemicals in Films, Plates and Papers - Determination and Measurement.

~~AHIM/~~ MS-1 1981 1988

~~Practice for Operational Practices/Inspection and Quality Control for Alphanumeric Computer-Output Microforms. Recommended Practice for Alphanumeric Computer-Output Microforms - Operational Practices for Inspection and Quality Control.~~

ANSI/AIIM MS2 - 1978

Format and Coding for Computer-Output Microfilm.

ANSI/AIIM MS19 - 1978 1987

Recommended Practice for Identification of Microforms.

ANSI/AIIM MS23 - 1983 1990

Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

MS43 - 1988

Recommended Practice for Operational Procedures/Inspection and Quality Control of Duplicate Microforms of Documents and From COM.

~~AHIM/~~ MS-28 1983 1987

Alphanumeric COM Quality Test Slide.

~~AHIM/~~ TR-2 1980

Glossary of Micrographics.

PART IV. MICROFILM STOCK.

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of archival records shall be safety-base permanent record film as specified in American National Standards Institute (ANSI) PH 1.25 - 1984 Photography (film) - Safety Photographic Film; PH 1.28 - 1984 Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base; PH 1.41 - 1981 Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base 1989 Photography (Film) - Safety Photographic Film; IT9.1 - 1989 Imaging Media (Film) - Silver-Gelatin Type - Specifications for Stability.

PART V. MICROFILMING PROCEDURES.

§ 5.1. Procedures to be followed in establishing and operating a COM program shall conform to standards set

down in ANSI/AIIM MS1 - 1981 Practice for Operational Practices/Inspection and Quality Control for Alphanumeric Computer-output Microfilm and AHIM/MS28 1983 Alphanumeric COM Quality Test Slide MS1-1988 Recommended Practice for Alphanumeric Computer-Output Microforms - Operational Practices for Inspection and Quality Control, AIIM MS28 - 1987 Alphanumeric COM Quality Test Slide and MS43-1988 Recommended Practice for Operational Procedures/Inspection and Quality Control of Duplicate Microforms of Documents and From COM .

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail of the data base, and shall be easily read and reproduced. Microimages of the records shall be arranged, identified and indexed so that any component of the records can be located with reasonable ease.

§ 5.3. All densities shall be as consistent as possible throughout the microform. The background density on negative appearing camera microfilm shall exceed 1.8. Background density on positive appearing camera microfilm shall be no greater than 0.35. The Base-Plus-fog density of unexposed, processed, clear-base film shall not exceed 0.10. When a tinted base film is used, the density shall not exceed 0.3. Measurements are made using a densitometer calibrated with a step tablet provided by the Records Information Imaging Branch, Virginia State Library and Archives .

§ 5.4. Each microfilm shall have eye readable titling. This titling shall include the office of origin, record series , inclusive information, date of filming and serial sequential numbering of the microforms.

PART VI. PROCESSING.

§ 6.1. Processing must be either conventional or full reversal, utilizing a developer and fixer. Processors shall be certified by the manufacturer as capable of producing archival quality processed film as required by ANSI PH 4.8-1985 Photography (chemicals) - Residual Thiosulfate and other Chemicals in Films, Plates and Papers - Determination and Measurement.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm must have an optimum concentration of greater than zero but shall not exceed 0.7 micrograms per square centimeter in a clear film area. - Film processed in-house shall be tested and certified once every two weeks or as deemed necessary by the Virginia State Library and Archives . Processing services performed off-site shall include provisions requiring that the methylene blue test shall be performed once every 24 hours.

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the Records Branch Information Imaging Branch , Virginia State Library and Archives . The certificate shall contain the

name of the agency or governmental entity whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, the processor used, and the signature of the person who did the test.

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, must be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other contaminants shall not be allowed in microfilming areas.

§ 7.3. The camera microfilm shall be handled only during the inspection procedure and then generating an intermediate master. In systems generating two camera microfilms, one shall be designated as the archival camera microfilm and shall not be used for duplication, loaded into a cartridge or inserted in a viewer. In systems generating a single camera microfilm, the film shall be used only for *inspection and* the production of an intermediate master.

PART VIII. STORAGE.

§ 8.1. The computer-output microfilm shall be verified for completeness and accuracy *by the agency or governmental entity*, then transferred promptly to the *Records Branch Information Imaging Branch*, Virginia State Library and Archives, for storage. Each microform shall be placed in enclosures which are free of acids and peroxides, meeting ANSI PH 1.53, - Photography (processing) - Processed films, Plates, and Papers - Filing Enclosures and Containers for Storage. Adequate descriptive material shall be provided with the film to facilitate accessioning and retrieval. Camera microfilm shall be stored according to ANSI PH 1.43 - 1983.

§ 8.2. At approximately two-year intervals, a ~~1.0% sample of randomly selected microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. The guidelines in the National Bureau of Standards Handbook 96 Inspection of Processed Photographic Record Film for Aging Blemishes shall be followed~~ *sample of randomly selected reels of microfilm in storage shall be inspected according to MS45 - 1990 Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.*

* * * * *

Title of Regulation: VR 440-01-137.6. Standards for Plats.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: June 18, 1991 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

VR 440-01-137.6. Standards for Plats.

§ 1. Statement of applicability.

These standards shall apply to all plats and maps submitted for recordation in the circuit courts of the Commonwealth.

§ 2. Recording medium.

Documents size shall be between 8 1/2 x 11 and 18 x 24 inches, and the scale shall be appropriate to the size of the paper. Original plats shall be inscribed on either translucent or opaque paper, polyester or linen. The background quality for opaque paper shall be uniformly white, smooth in finish, unglazed, and free of visible watermarks or background logos. Only the original or a first generation unreduced black or blue line copy of the original plat drawing, which meets the quality inscription standards noted below and has the stamp and original signature of the preparer, shall be submitted for recordation.

§ 3. Quality inscription standards.

Color of original inscription shall be black or blue and be solid, uniform, dense, sharp, and unglazed. Signatures shall be in dark blue or black ink. Lettering shall be no less than 1/10 inch or 2.54 mm in height. Lettering and line weight shall be no less than .013 inches or .3302 mm. Letter and line spacing for control pencil drawings shall be no less than .050 inches and for ink drawings no less than .040 inches. The drawing substance must be either wet ink or control pencil but not a combination thereof. Good drafting practices shall be followed when eliminating ghost lines and when doing erasures, and all shading and screening shall be eliminated over written data. Inscriptions shall meet standards established herein, and *Engineering Drawing and Related Documentation Practices - Line Conventions and Lettering (ANSI Y14.2M - 1970 - 1987)*, *Drawing Sheet Size and Format (ANSI Y14.1 -*

Proposed Regulations

1975), and *Modern Drafting Techniques for Quality Microreproduction* (NMA Reference Series No. 3) *Technical Drawing - Lettering - Part I: Currently Used Characters (ISO 3098/1-1974) Technical Drawings - Sizes and Layout of Drawing Sheets ISO 5457 - 1980* shall be consulted as guidelines.

§ 4. Format for copies.

Margins shall be at least 1/4 inch on all sides, and inscriptions are to be made on only one side of the paper. All drawings shall have centering marks on each side, *adjacent and outside the margins*. Match lines or grid tics delineating 8 1/2 x 11 inch sections shall be inscribed on all plats larger than 8 1/2 x 11 inches, *to create the least number of grid blocks possible and be located adjacent and inside the margins*. Continuation sheets of multi-sheet drawings shall be the same size as the first sheet.

§ 5. Recording standards.

Recordation inscriptions shall be by clerk's printed certificate, stamping, typing or handwriting and shall conform to the quality inscription standards noted above.

§ 6. Exclusion.

A first generation copy of an original plat drawing dated prior to the adoption of these standards shall be admitted to record.

§ 7. Note.

Where a plat is submitted as part of an instrument, these plat standards shall apply to such plat.

§ 8. These standards become effective January 1, 1986.

* * * * *

Title of Regulation: VR 440-01-137.7. Standards for Recorded Instruments.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: June 18, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional

impact to state agencies, local government entities, or the public.

VR 440-01-137.7. Standards for Recorded Instruments.

§ 1. Statement of applicability.

These standards shall apply to all writings required by law to be recorded and retained permanently in the clerk's office of the circuit courts of the Commonwealth. As noted in the section on exclusions, wills are exempt from the requirements of these standards.

§ 2. Recording medium.

Instruments shall be recorded on paper that is uniformly white, opaque, smooth in finish, unglazed, and free of visible watermarks and background logos. The size of the paper shall be no less than 8 1/2 x 11 or larger than 8 1/2 x 14 inches. *A minimum paper weight of 20lb is required.* Positive (black on white background) copies may be substituted provided the copies meet the paper and quality inscription standards noted herein, and ~~can~~ be *microfilmed are microfilmable* and capable of producing a legible image from microfilm. Negative (white on black background) and carbon copies are not acceptable.

§ 3. Inscription standards.

All inscriptions shall be black and shall be solid, uniform, dense, sharp, and unglazed. Inscriptions are solid when the lines forming each letter do not have blank or light spots, and they are uniform when the entire letter is the same darkness. To be dense, each letter must be dark, and to be sharp, the demarcation between each letter and the background must be abrupt. Inscriptions are unglazed if they are nonreflective. Signatures shall be in dark blue or black ink.

§ 4. Inscription size.

Printing shall be nine point or larger. Typing shall be elite (12 characters per inch) or pica (10 characters per inch) or larger.

§ 5. Format.

A *minimum* one inch ; ~~minimum~~, margin shall be provided on the left, top, and bottom margins and one-half inch on the right margin.

§ 6. Recording standards.

Recordation inscriptions shall be by clerk's printed certificate, stamping, typing or handwriting and shall conform to the quality inscription standards noted above.

§ 7. Exclusion.

These standards do not apply to wills, nonpermanent disposable forms, such as Uniform Commercial Cod

Proposed Regulations

forms, and Juvenile and Domestic Relations District Court and General District Court judgments and warrants. Original documents executed prior to adoption of these standards July 1, 1986 shall be admitted to record. Where a plat is submitted as part of an instrument, the standards for plats shall apply.

§ 8: The standards become effective January 1, 1986.

* * * * *

Title of Regulation: VR 440-01-137.8. Standards for Paper for Permanent Circuit Court Records.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: June 18, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. This standard establishes minimum criteria for the type of paper to be used for permanent records required to be retained in the circuit court clerk's office. This standard should pose no additional impact to state agencies, local government entities, or the public since the cost of this type of paper is not any greater than purchasing what is already required.

VR 440-01-137.8. Standards for Paper for Permanent Circuit Court Records.

§ 1. Statement of applicability.

These standards shall apply to instruments submitted for recordation which will be permanently retained by the circuit courts and to any volumes/papers used for recording permanent records in the circuit courts of the Commonwealth.

§ 2. Referenced standards.

This standard is intended to be used in conjunction with the following: The American Society for Testing and Materials D3290-81 "Standard Specifications for Bond and Ledger Papers for Permanent Records and D3208-81 "Standard Specifications for Manifold Papers for Permanent Records" and American National Standards Institute ANSI Z39.49-1984 "Permanence of Paper for Printed Library Materials" and The Technical Association of the Pulp and Paper Industry T 509 om-83, "Hydrogen Ion Concentration (pH) of Paper Extracts - Cold Extraction Method." When these standards are superseded by a revision, approved by the promulgating organization, the revision shall apply.

§ 3. Definitions.

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

"Alkaline reserve" means the presence of a compound (e.g., calcium carbonate) put in the paper at a level sufficient to neutralize acid that might, in the future, be generated from aging of the paper or from atmospheric pollution.

"Groundwood" means pulp produced by mechanically defibering wood without chemical cooking; such pulp contains many substances deleterious to the permanence of paper, notably lignin.

"pH" means the negative logarithm of the hydrogen ion activity in an aqueous solution or the logarithm of the reciprocal of the hydrogen ion activity. Numerically expressed, pH 7 is neutral, lower numbers are acidic, higher numbers are alkaline. The concentration of the free hydrogen ions is expressed as an exponent, so the pH 4 is 10 times more acidic than pH 5 and 100 times more acidic than pH 6.

"Permanence" means, for the purpose of this standard, paper that would last at least several hundred years without significant deterioration under normal use and storage conditions.

"Uncoated" means, for the purpose of this standard, paper that is composed of fiber plus fillers, sizing, dyes, and the like, but with no surface coating in excess of 2.5 pounds per side for every 500 sheets measuring 25 inches by 38 inches.

§ 4. Minimum requirements.

Uncoated permanent paper shall meet all of the following minimum requirements:

- 1. pH. Minimum pH of 7.5 in accordance with the cold extraction method described in Technical Association of the Pulp and Paper Industry T 509 om-83, "Hydrogen Ion Concentration (pH) of Paper Extracts - Cold Extraction Method."*
- 2. Alkaline reserve. Minimum alkaline reserve equivalent to 2.0% calcium carbonate based on oven dry weight of the paper.*
- 3. Paper stock. The paper shall include no groundwood or unbleached pulp.*
- 4. Minimum paper weight of 24 pound is required of records being held or reproduced in book form for permanent retention/use in the recording office.*

Proposed Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Case Management for Mental Retardation Waiver Clients.

VR 460-03-3.1102. Case Management Services.

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

Public Hearing Date: N/A – Written comments may be submitted until July 19, 1991.

Summary:

Chapter 972 of the Code of Virginia directs DMHMRSAS and DMAS to provide Medicaid coverage for community mental retardation services including case management services.

The purpose of this proposal is to promulgate permanent regulations providing for the coverage of case management services for mentally retarded persons to supersede the current emergency regulations.

The 1990 Appropriations Act (Item 466) directed the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and the Department of Medical Assistance Services (DMAS) to provide Medicaid coverage for community mental health, mental retardation, and substance abuse services in Virginia. As a part of this initiative, DMAS was instructed to seek a waiver to offer home and community-based services to deinstitutionalize and divert mentally retarded individuals from more costly institutional care into community care. This action enables the Commonwealth to realize cost savings and provide services in less restrictive environments which promote more individual growth and development.

Virginia has received approval from the Health Care Financing Administration (HCFA) for two waivers under § 1915(c) of the Social Security Act. Waiver I is for services to individuals in institutions for the mentally retarded or who are at risk of institutionalization and can be cared for in the community. Waiver II is targeted to individuals who currently reside in nursing homes but who require active treatment for mental retardation.

One of the services included in each of the waiver requests was targeted case management for clients approved to participate in one of the waivers. During the official review of the waiver proposals, HCFA staff requested that the coverage of case management services be removed from the waiver proposals and submitted instead as a State Plan optional service. The current emergency regulation satisfies the direction given to the agency by the General

Assembly that case management services be provided to participants in the two community-based waiver programs for the mentally retarded.

DMAS expects the waivers to be adequately funded by a combination of general funds transferred from DMHMRSAS and \$787,500 in FY 91 and \$3,150,000 in FY 92 (GF) appropriated to DMAS and federal matching dollars.

VR 460-03-3.1102. Case Management Services.

§ 1. High risk pregnant women and children.

A. Target group.

To reimburse case management services for high-risk Medicaid eligible pregnant women and children up to age two.

B. Areas of state in which services will be provided:

Entire state.

Only in the following geographic areas (authority of § 1915(g)(1) of the Act is invoked to provide services less than statewide.

C. Comparability of services.

Services are provided in accordance with § 1902(a)(10)(B) of the Act.

Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

Definition of services.

The case management services will provide maternal and child health coordination to minimize fragmentation of care, reduce barriers, and link clients with appropriate services to ensure comprehensive, continuous health care. The Maternity Care Coordinator will provide:

1. Assessment. Determining clients' service needs, which include psychosocial, nutrition, medical, and educational factors.

2. Service planning. Developing an individualized description of what services and resources are needed to meet the service needs of the client and help access those resources.

3. Coordination and referral. Assisting the client in arranging for appropriate services and ensuring continuity of care.

4. Follow-up and monitoring. Assessing ongoing progress and ensuring services are delivered.

5. Education and counseling. Guiding the client and developing a supportive relationship that promotes the service plan.

E. Qualifications of providers.

Any duly enrolled provider which the department determines is qualified who has signed an agreement with Department of Medical Assistance Services to deliver Maternity Care Coordination services. Qualified service providers will provide case management regardless of their capacity to provide any other services under the Plan. A Maternity Care Coordinator is the Registered Nurse or Social Worker employed by a qualified service provider who provides care coordination services to eligible clients. The RN must be licensed in Virginia and should have a minimum of one year of experience in community health nursing and experience in working with pregnant women. The Social Worker (MSW, BSW) must have a minimum of one year of experience in health and human services, and have experience in working with pregnant women and their families. The Maternity Care Coordinator assists clients in accessing the health care and social service system in order that outcomes which contribute to physical and emotional health and wellness can be obtained.

§ 2. (Reserved.)

§ 3. (Reserved.)

§ 4. (Reserved.)

§ 5. *Individuals with mental retardation and related conditions who are participants in the home and community-based care waivers for persons with mental retardation and related conditions.*

A. Target group.

Medicaid eligible individuals with mental retardation and related conditions, or a child under six years of age who is at developmental risk, who have been determined to be eligible for home and community based care waiver services for persons with mental retardation and related conditions. An active client for waiver case management shall mean an individual who receives a minimum of one face-to-face contact every two months and monthly on-going case management interactions. There shall be no maximum service limits for case management services. Case management services must be preauthorized by DMAS after review and recommendation by the care coordinator employed by DMHMRSAS and verification of waiver eligibility.

B. Areas of state in which services will be provided:

Entire State

Only in the following geographic areas (authority of § 1915(g)(1) of the Act is invoked to provide services

less than statewide.

C. Comparability of services.

- Services are provided in accordance with § 1902(a)(10)(B) of the Act.
- Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

D. Definition of services.

Mental retardation services to be provided include:

- 1. Assessing needs and planning services, determining the appropriateness of, and need for, mental retardation services, evaluating individual needs, reevaluating individual needs periodically, and developing consumer service plan (does not include performing medical and psychiatric assessment but does include referral for such assessment);*
- 2. Linking the individual to services and supports specified in the consumer service plan;*
- 3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources, including crisis services;*
- 4. Coordinating services with other agencies and providers involved with the individual (e.g., Departments of Social Services, Rehabilitative Services and Health, school division, Area Agency on Aging, Social Security Administration);*
- 5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic and recreational services; and*
- 6. Making collateral contacts with the individual's significant others to promote implementation of the service plan and community adjustment.*

E. Qualifications of providers.

1. Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to limit case management providers for individuals with mental retardation and serious/chronic mental illness to the community services boards only to enable them to provide services to serious/chronically mentally ill or mentally retarded individuals without regard to the requirements of § 1902(a)(10)(B) of the Act.

2. To qualify as a provider of services through DMAS for rehabilitative mental retardation case

Proposed Regulations

management, the provider of the services must meet certain criteria. These criteria shall be:

a. The provider must guarantee that clients have access to emergency services on a 24-hour basis;

b. The provider must demonstrate the ability to serve individuals in need of comprehensive services regardless of the individuals' ability to pay or eligibility for Medicaid reimbursement;

c. The provider must have the administrative and financial management capacity to meet state and federal requirements;

d. The provider must have the ability to document and maintain individual case records in accordance with state and federal requirements;

e. The services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services; and

f. The provider must be certified as a mental retardation case management agency by the DMHMRSAS.

3. Providers may bill for Medicaid mental retardation case management only when the services are provided by qualified mental retardation case managers. The case manager must possess a combination of mental retardation work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities. The incumbent must have at entry level the following knowledge, skills and abilities. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

a. Knowledge of:

(1) The definition, causes and program philosophy of mental retardation,

(2) Different types of assessments and their uses in program planning,

(3) Consumers' rights,

(4) Local service delivery systems, including support services,

(5) Types of mental retardation programs and services.

(6) Effective oral, written and interpersonal communication principles and techniques,

(7) General principles of record documentation, and

(8) The service planning process and the major components of a service plan.

b. Skills in:

(1) Negotiating with consumers and service providers,

(2) Observing, recording and reporting behaviors,

(3) Identifying and documenting a consumer's needs for resources, services and other assistance,

(4) Identifying services within the established service system to meet the consumer's needs,

(5) Coordinating the provision of services by diverse public and private providers, and

(6) Analyzing and planning for the service needs of mentally retarded persons.

c. Abilities to:

(1) Demonstrate a positive regard for consumers and their families (e.g., treating consumers as individuals, allowing risk taking, avoiding stereotypes of mentally retarded people, respecting consumers' and families' privacy, believing consumers can grow),

(2) Be persistent and remain objective,

(3) Work as team member, maintaining effective interagency and intraagency working relationships,

(4) Work independently, performing position duties under general supervision, and

(5) Communicate effectively, verbally and in writing

F. The state assures that the provision of case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act.

1. Eligible recipients will have free choice of the providers of case management services.

2. Eligible recipients will have free choice of the providers of other medical care under the plan.

G. Payment for case management services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

Proposed Regulations

DEPARTMENT OF MINES, MINERALS AND ENERGY

Virginia Gas and Oil Board

Title of Regulation: VR 480-05-22.2. Virginia Gas and Oil Board Regulations.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Public Hearing Date: July 16, 1991 - 9 a.m.
(See Calendar of Events section
for additional information)

Summary:

The Virginia Gas and Oil Board is proposing to adopt regulations governing conservation of the Commonwealth's gas and oil resources and protection of the correlative rights of gas and oil owners. The regulations are authorized by the Virginia Gas and Oil Act of 1990, Chapter 22.1 of Title 45.1 of the Code of Virginia. This regulation will replace the emergency Conservation Regulations for Gas and Oil, VR 480-05-22.2, which will expire with promulgation of this regulation or on October 29, 1991, whichever occurs first.

The proposed regulation will set standards for: (i) applying for field rules and drilling units to provide for efficient production of the Commonwealth's gas and oil resources while drilling the minimum necessary number of wells; (ii) pooling, or grouping together, the interest of gas or oil owners around a well to provide for fair allocation of costs and production between the owners and escrowing revenue attributable to conflicting claimants to coalbed methane gas until ownership is decided; (iii) establishing costs which may be included in a forced pooled drilling unit; (iv) submitting miscellaneous petitions before the board; (v) enforcing regulations and orders of the board; and (vi) hearing appeals of administrative decisions of the department.

VR 480-05-22.2 Virginia Gas and Oil Board Regulations

§ 1. Definitions.

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

"Act" means the Virginia Gas and Oil Act of 1990, Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia.

"Applicant" or "petitioner" means a person who files an application, petition, appeal or other request for board action.

"Complete application" means all the materials required to be filed by the applicant under this regulation.

"Department" means the Department of Mines, Minerals and Energy.

"Director" means the Director of the Department of Mines, Minerals and Energy or his authorized agent.

"Directional survey" means a well survey that measures the degree of departure of a hole, or distance, from the vertical and the direction of departure.

"Division" means the Division of Gas and Oil of the Department of Mines, Minerals and Energy.

"Election" means the performance of an act within the time established or required by statute, order or regulation. An election required to be made by board order or regulation must be in writing and (i) be personally delivered to the person or agent of the person described in the order or regulation by the date established or required, or (ii) be mailed to the person or agent of the person described in the order or regulation at the address stated therein and be postmarked by the United States Postal Service before midnight on the date established or required.

"Field" means the general area underlain by one or more pools.

"Gas/oil ratio" means the product of the number of Mcf of natural gas produced from a well divided by the number of barrels of oil produced from the well as determined by a gas/oil ratio test.

"Gas well" means any well which produces or appears capable of producing a ratio of 6,000 cubic feet (6 Mcf) of gas or more to each barrel of oil, on the basis of a gas-oil ratio test.

"Inclination survey" means a well survey to determine the deviation, using the surface location of the well as the apex, of a well bore from the true vertical beneath the apex on the same horizontal subsurface plane.

"Metes and bounds" means the boundary lines of land, with their terminal points, angles and distances.

"Mcf" means, when used with reference to natural gas, 1,000 cubic feet of gas at a pressure base of 14.73 pounds per square inch gauge and a temperature base of 60°F.

"Mine development plan" or "Registered operations plan" means a plan filed with the Division of Mines or the Division of Mined Land Reclamation as part of the licensing or permitting for the legal permission to engage in extraction of coal resources.

"Oil well" means any well which produces or appears capable of producing a ratio of less than 6,000 cubic feet (6 Mcf) of gas to each barrel of oil, on the basis of a gas-oil ratio test.

Proposed Regulations

"Pooling" means the combining of all or parts of two or more tracts into one unit for drilling a gas, oil or coalbed methane gas well or wells, or the combining of small tracts sufficient for the granting of a permit or permits to drill a gas, oil or coalbed methane gas well or wells. Pooling may be accomplished either through voluntary agreement of the owners of gas or oil interests in the tracts or through a compulsory order of the board.

"Respondent" means a person named in an application, petition, appeal or other request for board action and against whom relief is sought by the applicant, or a person who under the terms of a board order, is required to make an election.

"Unit operator" means the gas or oil owner designated by the board to operate in or on a pooled unit.

§ 2. Authority and applicability.

A. This regulation is promulgated by the Virginia Gas and Oil board pursuant to § 45.1-361.15 of the Code of Virginia.

B. This regulation replaces the emergency Conservation Regulations for Gas and Oil, VR 480-05-22.2.

C. As provided for in the Virginia Acts of Assembly, 1990, Chapter 92, all field rules and orders issued pursuant to the provisions of the Oil and Gas Act of 1982, Chapter 22 (§ 45.1-286 et seq.) of Title 45.1 of the Code of Virginia shall remain in force and effect until modified or revoked pursuant to the provisions of the Gas and Oil Act of 1990, Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia. The requirements of this regulation are in addition to requirements of field rules and orders.

§ 3. Administrative provisions.

A. The Virginia Gas and Oil Board shall meet on the third Tuesday of each calendar month unless no action is required by the board or unless otherwise scheduled by the board. All hearings shall be scheduled in accordance with the requirements for notice by publication in § 45.1-361.19 of the Code of Virginia. Except where otherwise established by the Act, the board may establish deadlines for filing materials for meetings or hearings scheduled on other than the third Tuesday of each month.

B. Applications to the board must be filed by the following deadlines:

1. All applications, petitions, appeals or other requests for board action must be received by the division at least 30 calendar days prior to the regularly scheduled meeting of the board.

2. When required, the following material must be filed with the division at least seven calendar days prior to the regularly scheduled meeting of the board in order

for the application to be considered a complete application:

a. The affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 45.1-361.19 of the Code of Virginia and § 4 of this regulation; and

b. Proof of notice by publication in accordance with § 4 D of this regulation.

C. A complete application that is not filed by the deadlines of this subsection shall be carried over to the next scheduled meeting of the board. A submission that does not contain a complete application shall not be considered by the board until the application is complete.

D. The division shall assign a docket number to each application or petition. The docket number shall be referenced when submitting material regarding the application or petition.

E. In addition to the other requirements of this regulation, applications to the board shall meet the following standards:

1. Each application for a hearing before the board shall be headed by a caption which shall contain a heading including:

a. "Before the Virginia Gas and Oil board";

b. The name of the applicant;

c. The relief sought; and

d. The docket number assigned by the division.

2. Each application shall be signed by the applicant, an authorized agent of the applicant, or an attorney for the applicant, certifying that, "The foregoing application to the best of my knowledge, information, and belief is true and correct."

3. Exhibits shall be identified by the docket number and an exhibit number and may be introduced as part of a person's presentation.

4. Persons shall submit 10 sets of each application and exhibit. Each person offering exhibits into evidence shall also have available a reasonably sufficient number of exhibits for other persons who are subject to the provisions of §§ 45.1-361.19 and 45.1-361.23 of the Code of Virginia and are expected to be in attendance at the hearing.

F. Applications for the establishment of units, spacing or pooling shall be accompanied by a \$100 nonrefundable fee, payable to the Treasurer of Virginia.

G. All parties in any proceeding before the board an

entitled to appear in person or by counsel or other qualified representative, as provided for in the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

§ 4. Notice of hearings.

A. Each applicant for a hearing to establish field rules, drilling units or who seeks to pool interests in a drilling unit under §§ 45.1-361.20, 45.1-361.21 or 45.1-361.22 of the Code of Virginia shall provide notice in accordance with § 45.1-361.19 of the Code of Virginia.

B. Each applicant for a hearing to establish an exception to statewide spacing under § 45.1-361.17 of the Code of Virginia shall provide notice by certified mail, return receipt requested, to all gas, oil, coal or mineral owners having an interest underlying any tract located within the distances provided in § 45.1-361.17 of the Code of Virginia or the distance to the nearest well completed in the same pool, whichever is less. Each applicant for a hearing to establish an exception to a well location provided for in a drilling unit established by an order of the board shall provide notice by certified mail, return receipt requested, to all gas, oil, coal or mineral owners having an interest underlying the unit where the exception is requested.

C. Each applicant shall include, with the mailed notice of the hearing, a copy of his application or petition to the board.

D. When the identity or location of any person to whom notice is required to be given in accordance with subsection A or B of this section is unknown at the time the applicant applies for a hearing before the board, the applicant for the hearing shall cause a notice to be published in a newspaper of general circulation in the county, counties, city, or cities where the land or the major portion thereof which is the subject of the application is located. The notice shall include:

1. The name and address of the applicant;
2. A description of the action to be considered by the board;
3. A map showing the general location of the area which would be affected by the proposed action or a description which clearly describes the location or boundaries of the area which would be affected by the proposed action sufficient to enable local residents to identify the area;
4. The date, time and location of the hearing at which the application is scheduled to be heard; and
5. Where interested persons may obtain additional information.

E. Notice of a hearing made in accordance with §

45.1-361.19 of the Code of Virginia or this section shall be sufficient, and no additional notice is required to be made by the applicant upon a postponement or continuance of the hearing.

F. Each applicant for a hearing to modify an order established under § 45.1-361.20 of the Code of Virginia shall provide notice in accordance with § 45.1-361.19 of the Code of Virginia to each person having an interest underlying the tract or tracts in the area to be affected by the proposed modification.

G. An applicant filing a petition to modify a forced pooling order established under § 45.1-361.21 or § 45.1-361.22 of the Code of Virginia to change the unit operator based on change of the corporate name of the unit operator, change of corporate structure of the unit operator or transfer of the unit operator's interests to any single subsidiary, parent or successor by merger or consolidation is not required to provide notice. Each other applicant for a hearing to modify a forced pooling order shall provide notice in accordance with § 45.1-361.19 of the Code of Virginia to each person whose interest has been pooled under the order establishing the unit, or the successor or successors in interest to any such person.

§ 5. Applications for field rules.

A. Each application filed under § 45.1-361.20 of the Code of Virginia to establish or modify a field rule, a drilling unit or drilling units shall contain:

1. The name and address of the applicant and the applicant's counsel, if any;
2. In the case of an application to vacate or amend an order, identification of the order to be vacated or amended;
3. A statement of the relief sought and the proposed provisions of the order or a proposed order;
4. Citations of statutes, rules, orders, and decided cases supporting the relief sought;
5. In the case where a field rule is proposed to be established or modified:
 - a. A statement of the type of field (gas, oil or coalbed methane gas);
 - b. A description of the proposed formation or formations subject to the petition; and
 - c. A description of the pool or pools included in the field, based on geological and technical data, including a metes and bounds description of the boundaries of the pool or pools and field, referenced to and located on a United States Geological Survey, 7.5-minute topographic map or maps. Effective October 1, 1992, the Virginia Coordinate

Proposed Regulations

System of 1927 as defined in Chapter 17 (§ 55-287 et seq.) of Title 55 of the Code of Virginia, also known as the State Plane Coordinate System, shall be used to describe and locate the boundaries of the pool or pools. Applicants are encouraged to use the State Plane Coordinate System prior to October 1, 1992;

6. In the case where a drilling unit or units are proposed to be established or modified:

a. A statement of the acreage to be embraced within each drilling unit;

b. A description of the formation or formations to be produced by the well or wells in the unit or units; and

c. A metes and bounds description of the boundaries of the drilling unit or units, referenced to and located on a United States Geological Survey, 7.5-minute topographic map or maps in accordance with the standards for use of the State Plane Coordinate System of subdivision A 5 c of this section;

7. A statement of the amount of acreage to be included in the order;

8. A statement of the proposed allowable production rate or rates and supporting documentation, if applicable;

9. Evidence that any proposal to establish or modify a unit or units for coalbed methane gas will meet the requirements of § 45.1-361.20 C of the Code of Virginia;

10. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 45.1-361.19 of the Code of Virginia and § 4 of this regulation;

11. When required, proof of notice by publication in accordance with § 4 D of this regulation; and

12. Copies of proposed exhibits.

§ 6. Applications for exceptions to minimum well spacing requirements.

A. Applications for an exception to statewide spacing under § 45.1-361.17 of the Code of Virginia or under a field rule issued by the board shall contain the following:

1. The name and address of the applicant and the applicant's counsel, if any;

2. In the case of an application for an exception to spacing established in a field rule, identification of the order governing spacing in the field;

3. A statement of the proposed location of the well in relation to permitted wells within the distances prescribed in § 45.1-361.17 of the Code of Virginia;

4. A description of the formation or formations to be produced by the well proposed for alternative spacing and the formation or formations produced by neighboring wells;

5. A description of the spacing of other wells producing from the formation or formations to be produced by the well;

6. A description of the conditions justifying the alternative spacing;

7. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 4 of this regulation;

8. When required, proof of notice by publication in accordance with § 4 D of this regulation; and

9. Copies of proposed exhibits.

§ 7. Applications to pool interests in a drilling unit: conventional gas or oil or no conflicting claims to coalbed methane gas ownership.

A. Applications filed under § 45.1-361.21 of the Code of Virginia to pool interests in a drilling unit for conventional gas or oil or for coalbed methane gas where there are no conflicting claims to ownership of the coalbed methane gas, except as provided for in subsection B of this section, shall contain the following:

1. The name and address of the applicant and the applicant's counsel, if any;

2. In the case of an application to vacate or amend an order, identification of the order to be vacated or amended;

3. A statement of the relief sought and proposed provisions of the order or a proposed order;

4. Citations of statutes, rules, orders, and decided cases supporting the relief sought;

5. A statement of the type of well or wells (gas, oil or coalbed methane gas);

6. The permit number or numbers, if any have been issued;

7. A metes and bounds description of area to be pooled;

8. A map showing the size and shape of the proposed unit and boundaries of tracts within the unit, which, effective October 1, 1992, shall be referenced to the

State Plane Coordinate System, the names of owners of record of the tracts, and the percentage of acreage in each tract to the total acreage of the unit, certified by a licensed land surveyor or a licensed professional engineer and attested by the applicant as to its conformity to existing orders issued by the board;

9. A description of the status of interests to be pooled in the unit at the time the application is filed;

10. For an application to pool a coalbed methane gas unit, a statement of the percentage of the total interest held by the applicant in the proposed unit at the time the application for the hearing is filed;

11. A statement of the names of owners and the percentage of interests to be escrowed under § 45.1-361.21 D of the Code of Virginia for each owner whose identity or location is unknown at the time the application for the hearing is filed;

12. A description of the formation or formations to be produced;

13. An estimate of production over the life of well or wells;

14. An estimate of the amount of reserves of the unit;

15. An estimate of the allowable costs in accordance with § 10 of this regulation;

16. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 45.1-361.19 of the Code of Virginia and § 4 of this regulation;

17. When required, proof of notice by publication in accordance with § 4 D of this regulation; and

18. Copies of proposed exhibits.

B. Applications to amend an order pooling interests in a drilling unit may be filed by written stipulation of all persons affected. The application is not required to contain the information specified in subsection A of this section, but shall contain the proposed amended language to the order, shown by interlineation.

C. After the time for election provided in any pooling order has expired, the unit operator shall file an affidavit with the board stating whether or not any elections were made. If any elections were made, the affidavit shall name each respondent making an election and describe the election made. If no elections were made or if any response was untimely, the affidavit shall so state. The affidavit shall be accompanied by a proposed supplemental order to be made and recorded to complete the record regarding elections. The affidavit and proposed supplemental order shall be filed by the unit operator within 20 days after the last day on which a timely

election could have been delivered or mailed, or within 20 days after the last date for payment set forth in the pooling order, whichever occurs last.

§ 8. Applications to pool interests in a drilling unit: conflicting claims to coalbed methane gas ownership.

In addition to the information required in § 7 of this regulation, applications filed under § 45.1-361.22 of the Code of Virginia to pool interests in a drilling unit for coalbed methane gas where there are conflicting claims to ownership of the coalbed methane gas shall contain a description of the conflicting ownership claims and the percentage of interests to be escrowed for the conflicting claims, and a plan for escrowing the costs of drilling and operating the well or wells and the proceeds from the well or wells attributable to the conflicting interests.

§ 9. Standards for escrow accounts.

Payment of funds into escrow accounts shall be made in accordance with the standards established in each order of the board requiring such payment.

§ 10. Allowable cost which may be shared in pooled gas or oil operations.

A. The unit operator of a pooled unit may share all reasonable costs of operating the unit, including a reasonable supervision fee, with other participating and nonparticipating operators, as provided for in § 45.1-361.21 of the Code of Virginia, which may include:

1. Direct costs:

a. Ecological and environmental;

b. Rentals and royalties;

c. Labor;

d. Employee benefits;

e. Material;

f. Transportation;

g. Services;

h. Equipment and facilities furnished by the unit operator;

i. Damages and losses to joint property;

j. Legal expenses;

k. Taxes;

l. Insurance;

m. Abandonment and reclamation;

Proposed Regulations

n. Communications; and

o. Other expenditures.

2. Indirect charges:

a. Drilling and production operations;

b. Major construction; and

c. Catastrophe.

B. Where there are conflicting royalty claims to coalbed methane gas, the unit operator of a forced pooled coalbed methane gas unit shall deposit proceeds in accordance with § 45.1-361.22 of the Code of Virginia, to be determined at the wellhead.

C. Where there are conflicting claims and one or more persons have elected to become participating or nonparticipating operators, the unit operator of a forced pooled coalbed methane gas unit shall escrow net proceeds after deduction for royalty and other costs consistent with the terms of this regulation and the board's order regarding the unit.

D. In any dispute which may arise regarding a unit operator's costs, the unit operator shall be entitled to the benefit of a presumption of reasonableness where it is shown that the types of costs being disputed are, by custom and practice, customary and usual within the industry. The unit operator shall not be entitled to a presumption of reasonableness of the amount of the costs being disputed.

§ 11. Recordkeeping.

A. Each unit operator shall maintain records of production, income, payments made to lessors and other information prescribed by the board, until the later of:

1. When the permits for all wells in the unit have been released by the department;

2. Twenty-four months after all escrowed funds for competing claims to ownership of coalbed methane gas in the unit have been paid out under order of the board; or

3. When so ordered by the board.

B. Each unit operator shall maintain records of all costs charged to participating or nonparticipating operators until the later of:

1. Twenty-four months after all costs attributable to participating or nonparticipating operators have been settled and paid; or

2. When so ordered by the board.

C. Upon transfer of the right to conduct operations in a pooled drilling unit to a new unit operator, the old unit operator shall transfer all records required to be maintained in accordance with this section to the new unit operator. The old unit operator will not be released from responsibility as the unit operator until he has submitted, to the board, evidence that the records have been received by the new unit operator.

D. In the event a unit operator wishes to terminate its legal existence and the unit is not transferred to a new unit operator, or when the permit for any well in the unit has been revoked and the bond forfeited by the department, the unit operator shall transfer, to the board, all records required to be maintained in accordance with this section.

§ 12. Applications to change the unit operator for a unit established by order of the board.

A. The approval of the board is not required to sell, assign or otherwise convey an operator's ownership interest in a unit or group of units unless the operator was appointed by board order as the unit operator.

B. Voluntary transfer of the right to operate a unit established by the board may be requested upon transfer of unit operations to a new operator. For a voluntary transfer, the proposed new unit operator shall file written notification of the transfer of operations and request the board to amend the order to reflect the transfer. The notification shall include, but not be limited to:

1. The name and address of the existing unit operator;

2. The name and address of the proposed new unit operator;

3. Written approval from the existing unit operator;

4. Identification of the order to be amended;

5. A description of any changes in the percentage of interests in each tract pooled in the unit, including a statement of the percentage of interest held by the proposed new unit operator if the unit is for coalbed methane gas;

6. A description of any other changes to unit operations to be implemented by the proposed new unit operator;

7. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 4 of this regulation; and

8. Copies of proposed exhibits.

C. Involuntary transfer of the right to operate a unit established by board order may be requested if the un

operator has not continued gas or oil operations of the unit with due diligence, or the permit for any well in the unit has been revoked by the department. For an involuntary transfer, the proposed new unit operator shall file a written application to transfer the operations, including, but not limited to:

1. The name and address of the existing unit operator;
2. The name and address of the proposed new unit operator;
3. Identification of the order which is sought to be amended;
4. A detailed statement of the facts supporting the removal of the existing operator;
5. A description of any changes in the percentage of interests in each tract pooled in the unit, including a statement of the percentage of interest held by the proposed new unit operator if the unit is for coalbed methane gas;
6. A description of any other changes to unit operations to be implemented by the proposed new unit operator;
7. An affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 4 of this regulation; and
8. Copies of proposed exhibits.

§ 13. Appeals of the director's decisions.

A. Appeals of the director's decisions shall be filed in writing, at the office of the division, in accordance with §§ 45.1-361.23 and 45.1-36.36 of the Code of Virginia.

B. A petition to appeal a decision of the director shall contain:

1. The name and address of the petitioner and the petitioner's counsel, if any;
2. Identification of the decision being appealed, and the date the decision was issued;
3. A statement identifying the standing of the petitioner to appeal;
4. A statement setting forth the reasons for the appeal, including errors alleged in the director's decision and the reasons why the decision is deemed contrary to law or regulation;
5. A statement that the issues on appeal were in fact raised as required by § 45.1-361.36 B of the Code of Virginia;

6. A statement setting forth the specific relief requested;

7. When a stay to any proposed activity allowed as a result of the director's decision is desired, a request for the stay and the basis for granting the stay; and

8. Other information, relevant to the petition, the petitioner wishes to provide.

C. Upon receipt of an appeal containing a request for a stay, the director shall decide on the request in accordance with § 45.1-361.23 D of the Code of Virginia.

§ 14. Miscellaneous petitions to the board.

A. Any petition to the board not otherwise provided for in this regulation shall be made in writing, and shall contain:

1. The name and address of the petitioner and the petitioner's counsel, if any;
2. The names and addresses of any persons who are named as respondents in the petition;
3. An affidavit that notice has been given to each respondent, if any, named in the petition;
4. A statement of the issues of the petition;
5. A statement setting forth the specific relief requested; and
6. Other information, relevant to the petition, the petitioner wishes to provide.

§ 15. Effective dates for board orders.

A. All orders issued by the board under § 45.1-361.20 of the Code of Virginia shall remain in effect until vacated or amended by the board on its own motion or on application from an owner or operator in the field or unit subject to the order.

B. All orders issued by the board under §§ 45.1-361.21 and 45.1-361.22 of the Code of Virginia shall remain in effect:

1. For a period of one year from the date of issuance, if gas or oil operations have not commenced on the well or wells in the unit or units established by the order;
2. Until the permit or permits have been released on the well or wells, if gas or oil operations have commenced on the well or wells within the unit or units established by the order; or
3. Until vacated or amended by the board on its own motion or on application from a gas or oil owner or

Proposed Regulations

the unit operator in the unit subject to the order.

C. Conditional orders issued by the board under §§ 45.1-361.21 and 45.1-361.22 of the Code of Virginia shall remain in effect in accordance with the terms and conditions of the order, unless vacated or amended by an order of the board.

§ 16. Enforcement.

A. The director shall enforce the provisions of the Act, this regulation or order of the board, and may use the following methods:

1. Notices of violation in accordance with § 17 of this regulation;
2. Closure orders in accordance with § 18 of this regulation;
3. Petitions to the board to revoke any rights granted to operators by the board;
4. Emergency orders in accordance with § 45.1-361.27 D of the Code of Virginia; or
5. Any other action in accordance with the Code of Virginia.

B. A notice or order shall be served on the person to whom it is issued promptly after issuance, as follows:

1. By delivering a copy, by hand, to the person to whom the notice or order is issued or other employee or agent of the person; or
2. By sending a copy of the notice or order by certified mail, return receipt requested, to the person to whom the notice or order is issued or his designated agent.

C. Service shall be complete upon delivery of the notice or order, or of the mail, and shall not be deemed incomplete because of refusal to accept.

D. Nothing in this regulation shall prevent the director from taking any action or from making efforts to obtain voluntary compliance through conference, warning or other means prior to issuing any enforcement notice or order.

E. The purpose of taking enforcement actions is to obtain compliance with the provisions of the Act, this regulation or order of the board.

§ 17. Notices of violation.

A. The director may issue a notice of violation if he finds a violation of Chapter 22.1 of Title 45.1 of the Code of Virginia, this regulation, or any order of the board.

B. A notice of violation shall be in writing, signed, and set forth with reasonable specificity:

1. The nature of the violation;
2. A reasonable description of the activity or condition to which it applies;
3. The remedial action required, which may include interim steps; and
4. A reasonable deadline for abatement, which may include interim deadlines for accomplishment of interim steps.

C. The director may extend the deadline for abatement or for accomplishment of an interim step if the failure to meet the deadline previously set was not caused by the person's lack of diligence. The total time for abatement under a notice of violation, including all extensions, shall not exceed 20 days from the date of issuance, except upon a showing by the person and acceptance by the director that it is not feasible to abate the violation within 20 days, or if the deadline is extended during an appeal. An extension of the deadline for abatement may not be granted when the person's failure to abate within 20 days has been caused by a lack of diligence or intentional delay by the person.

D. The director shall terminate a notice of violation by written notice when he determines that all violations listed in the notice of violation have been abated.

E. Any person issued a notice of violation may, before the deadline established for abatement for the violation, request, in writing to the director, an informal fact finding hearing to review the issuance of the notice. The person is relieved of the duty to abate, during an appeal of the notice of violation to the director or board, any violation of Article 2 of the Act, this regulation or board order, except as otherwise provided by regulation.

F. The director shall conduct an informal fact finding hearing, in accordance with the Administrative Process Act, § 9-6.14:11 of the Code of Virginia, no later than 10 days after receipt of the hearing request. The director shall affirm, modify, or vacate the notice in writing, to the person who requested the hearing, no later than five days after the date of the hearing.

§ 18. Closure orders.

A. The director may immediately order a cessation of operations or of the relevant portion thereof, when:

1. A gas or oil operator continues to produce in excess of an allowable production limit established by the board after having been ordered by the director or board to stop production in excess of the allowable limit; or

Proposed Regulations

2. Repeated notices of violations have been issued for the same condition or practice.

B. A closure order shall be in writing, signed and shall set forth with reasonable specificity:

1. The nature of the condition, practice or violation;
2. A reasonable description of the activity or condition to which it applies;
3. The remedial action required, if any, which may include interim steps; and
4. A reasonable deadline for abatement, which may include interim deadlines for accomplishment of interim steps.

C. A closure order shall require the person to take all steps the director deems necessary to abate the violations covered by the order in the most expeditious manner possible.

D. The director shall terminate a closure order by written notice when he determines that all conditions, practices or violations listed in the order have been abated.

E. Any person issued a closure order may request an informal fact finding hearing to review the issuance of the order, in writing to the director, within 10 days from receipt of the order. The person may request an expedited hearing, in writing to the director, within three days of receipt of the order.

F. A person is not relieved of the duty to abate any condition under, or comply with, any requirement of a closure order during an appeal of the order.

G. The director shall conduct an informal fact finding hearing, in accordance with the Administrative Process Act, § 9-6.14.11 of the Code of Virginia, no later than 15 days after the order was issued, or in the case of an expedited hearing, no later than five days after the order was issued.

H. The director shall affirm, modify, or vacate the closure order in writing, to the person who requested the hearing, no later than five days after the date of the hearing.

§ 19. Civil charges.

A. Civil charges shall be provided for in accordance with § 45.1-361.8 C of the Code of Virginia.

B. The director, after finding any violation of the Act, a regulation promulgated under the Act, or order of the director or board, or upon direction from the board, may recommend a civil charge against a gas, oil or geophysical operator and shall base the recommendation

on the Civil Charge Calculation Procedure established by order of the board.

§ 20. Surveys and tests.

A. Deviation tests.

1. An inclination survey shall be made on all rotary drilled wells located in accordance with a field rule established by the board. An inclination survey is not required for wells drilled in accordance with the distance limitations of § 45.1-361.17 of the Code of Virginia. The first shot point shall be at a depth not greater than the bottom of the surface casing or, for a well drilled through a coal seam, at a depth not greater than that of the bottom of the coal protection string. Succeeding shot points shall be no more than 1,000 feet apart, or as otherwise ordered by the director. Inclination surveys conforming to these requirements may be made either during the normal course of drilling or after the well has reached total depth. Survey data shall be certified in writing as being true and correct by the designated agent or person in charge of a permittee's Virginia operations, or the drilling contractor, and shall indicate the resultant lateral deviation as the sum of the calculated lateral displacement determined between each inclination survey point, assuming that all displacement occurs in the direction of the nearest boundary of the unit. The resultant lateral deviation shall be recorded on the drilling or completion report filed by the permittee. However, if a directional survey determining the location of the bottom of the hole is filed upon completion of the well, it shall not be necessary to file the inclination survey data.

2. A directional survey shall be made when:

- a. A well is directionally controlled and is thereby intentionally deflected from vertical;
- b. The resultant lateral deviation of any well, calculated from inclination survey data, is greater than the distance from the center of the surface location of the well bore to the nearest boundary of the area where drilling is allowed in a unit established by the board; or
- c. A well is drilled as an exception location and a directional survey is ordered by the board.

3. The board or the director, on their own initiative or at the request of a gas or oil owner on a contiguous unit or tract, may require the permittee drilling any well to make a directional survey of the well if there is reasonable cause therefor. Whenever a survey is required by the board or the director at the request of a contiguous owner and the permittee of the well and contiguous owner are unable to agree as to the terms and conditions for making the directional survey, the permittee shall pay for the survey if the

Proposed Regulations

bottom hole location is found to be outside of the area approved for drilling, and the contiguous owner shall pay for the survey if the bottom hole location is found to be inside of the area approved for drilling.

4. Directional surveys shall be run from total depth to the base of the surface casing or coal protection string, unless otherwise approved by the board or the director. In the event that the proposed or final location of the producing interval or intervals of any well is not in accordance with this section or a board order, the unit operator shall apply to the board for an exception to spacing. However, directional surveys to total depth shall not be required in cases where the interval below the latest survey is less than 500 feet, and in such an instance, a projection of the latest survey shall be deemed to satisfy board requirements.

5. The results of each inclination or directional survey made in accordance with this section shall be filed by the permittee with the first drilling or completion report required by the department.

B. Flow potential and gas/oil ratio tests: conventional gas or oil wells.

1. If a gas or oil well appears capable of producing gas or oil, the permittee shall conduct a potential flow test and a gas/oil ratio test within 10 days after the well is completed and capable of producing gas or oil. The permittee shall file the test results, in writing, with the director. The director shall hold the test results confidential in accordance with § 45.1-361.6 of the Code of Virginia.

2. If a permittee deepens or stimulates a well after the initial potential flow test and gas/oil ratio test have been conducted, when determined to be necessary by the permittee or when requested by the board, the permittee shall conduct another potential flow test and gas/oil ratio test and, within 30 days after completing the test, file the results, in writing, with the director.

3. A back-flow method of determining open flow shall be used, such as provided for in the Interstate Oil Compact Commission, "Manual of Back-Pressure Testing of Gas Wells," 1979. However, when a back-flow method is believed not to be feasible, the permittee shall obtain prior approval from the director, and test the well in accordance with, an alternate method approved by the director that does not entail excessive physical waste of gas.

C. Testing of coalbed methane gas wells.

1. If a permittee cannot test the potential flow of a coalbed methane gas well by a back-flow method or complete the test within the time period required in subdivision B 1 of this section, the permittee may

request approval from the director to perform a coalbed methane gas production test. Such a test shall only be made when the water production and the gas flow rates are stabilized for a period of not less than 10 days prior to the test. The test shall be conducted for a minimum of 24 hours in the manner approved by the director. The permittee shall file the test results, in writing, with the director. The director shall hold the test results confidential in accordance with § 45.1-361.6 of the Code of Virginia.

D. The board may, by order and after notice and hearing, require a permittee to complete other tests on any well.

§ 21. Allowable production.

A. The board, on its own motion, on motion from the director or on motion from any gas or oil owner, and after notice and hearing, may establish the maximum allowable production rate for any well or number of wells in a pool. The setting of maximum allowable production rates shall be only for the purpose of preventing waste and protecting correlative rights, and not for prorating production between pools or geographic areas of the Commonwealth. However, no maximum allowable production rate shall be set for a coalbed methane gas well.

B. Proration of gas-lift wells.

1. No flowing or gas-lift oil well may produce with an excessive gas/oil ratio except with prior approval of the board. Oil wells that are gas-lifted with gas from gas wells shall be prorated in the same manner as high-ratio, naturally flowing oil wells. The gas/oil ratio, for oil wells that are gas-lifted with gas from gas wells, is defined as the total gas output less the total gas input divided by the number of barrels of oil produced. The uneconomic or unreasonable use of gas for gas-lift is prohibited.

§ 22. Enhanced recovery.

The board may, upon application, notice and hearing, authorize enhanced recovery projects on a case-by-case basis. No enhanced recovery project shall be authorized unless at least 51% of all of the gas or oil interests in the area to be covered by the proposed enhanced recovery project consent to the project. The board may, on a case-by-case basis, establish a minimum percentage greater than 51% for any area of the Commonwealth.

§ 23. Underground storage of natural gas.

No person may conduct any operation involving storage of natural gas in an underground gas storage field until the board has adopted an order governing the underground gas storage field.

Proposed Regulations

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-08-01. Virginia Energy Assistance Program.

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

Public Hearing Date: July 18, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The amendments propose several changes to the Fuel, and Crisis Assistance Components due to a reduction in funding. Applications for Fuel Assistance will be accepted during a shorter time period this year. Benefit levels will not be predetermined. Program design for Fuel Assistance will be based on an automated eligibility determination and benefit calculation process dependent on a point matrix system. Fuel Assistance benefit amounts will be determined on a point matrix system.

The Crisis Assistance Component will be expanded to provide assistance on a limited basis to households who did not receive Fuel Assistance in the current program year to purchase home heating fuel or to pay to prevent the disconnection of a primary utility heat source.

VR 615-08-1. Virginia Energy Assistance Program.

PART I. DEFINITIONS.

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

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement Disability, 100% Veterans Administration disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Energy-related," "weather-related," or "supply shortage emergency" means a household has: no heat or an imminent utility cut-off; inoperable or unsafe heating equipment; major air infiltration of housing unit; or a need for air conditioning because of medical reasons.

"Household" means an individual or group of individuals who occupies a housing unit and functions as an economic unit by: purchasing residential energy in common (share

heat); or, making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary heating system" means the system that is currently used to heat the majority of the house.

"Resources" means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of \$900, or any other similar resource which can be liquidated in not more than 60 days.

PART II. FUEL ASSISTANCE.

§ 2.1. The purpose of the Fuel Assistance component is to provide heating assistance to eligible households to offset the costs of home energy that are excessive in relation to household income.

A. Eligibility criteria.

1. Income limits. Maximum income limits shall be at or below 130% of the Poverty Guidelines. In order to be eligible for Fuel Assistance, a household's income must be at or below the maximum income limits.

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be \$3,000. The resource limit for all other households shall be \$2,000. In order to be eligible for Fuel Assistance, a household's resources must be at or below the amount specified.

3. Alien status. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.

B. Resource transfer.

Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for Fuel Assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become

Proposed Regulations

eligible for Fuel Assistance;

2. The resource was less than the allowable resource limit;

3. The disposition or transfer was done without the person's full understanding.

§ 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern, Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.

Each year the benefit amounts for each geographic area household shall be determined by the following method:

A. A projection will be made of the number of households who will apply for Fuel Assistance. The projection will be based on the number of households who applied the previous year increased by the additional number of people who applied the year before. The following factors for each household will be assigned a point value:

Gross monthly income

Living arrangements

Primary heat type

Climate zone

Vulnerability

Person 60 years of age or older

Disabled person in HH

Child under 16

B. An average grant per household will be determined based on the estimated amount of funds that will be available for benefits. The total points of all households will be determined.

$$\frac{\$ \text{ available}}{\text{no. of households}} = \text{average grant}$$

C. The benefits for each geographic area will be

determined by using the average grant as a base figure and obtaining the highest and lowest benefits by using a ratio for each area based on degree days and the cost of various fuel types. The available benefit dollars will be divided by the point total to determine a point value.

D. The generic benefit amount for statewide use will be determined by averaging the regional average benefit amounts for each fuel type. The household's benefit amount will be calculated by multiplying the household's point total by the value per point.

PART III. CRISIS ASSISTANCE.

§ 3.1. The purpose of the Crisis Assistance component is to assist households with energy-related, weather-related or supply shortage emergencies. This component is intended to meet energy emergencies that cannot be met by the Fuel Assistance component or other local resources.

A. Eligibility criteria.

In order to be eligible for Crisis Assistance, a household shall meet the following criteria:

1. All of the Fuel Assistance criteria as set forth in Part II, § 2.1;
2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;
3. Other resources cannot meet the emergency (including Fuel Assistance);
4. Did not receive Crisis Assistance during the current federal fiscal year: November 1 - March 15. ;
5. For assistance with primary heat source, did not receive Fuel Assistance in current program year.

B. Benefits.

An eligible household can receive no more than \$200 for Crisis Assistance during any federal fiscal year, unless the assistance is for the rebuilding or replacement of heating equipment or purchase of heating equipment where none exists, in which case the maximum amount of assistance shall be \$700.

The following forms of assistance shall be provided:

1. Repairs, replacement or rebuilding of inoperable or unsafe heating equipment.
2. Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to \$200 maximum. Assistance may be provided once every five years.
3. A one-time-only payment per fuel type of

heat-related utility security deposit.

4. Providing space heaters.

5. Providing emergency shelter.

6. To purchase home heating fuel or to pay to prevent the disconnection of a primary utility heat source. Assistance will be provided during a specified timeframe.

PART IV. COOLING ASSISTANCE.

§ 4.1. Cooling Assistance program is an optional component of the Energy Assistance Program that is designed to provide help to persons medically in need of cooling assistance due to the heat.

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their crisis allocation and will provide the assistance no earlier than ~~June 15~~ July 1 through no later than August 31.

A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the fuel assistance eligibility criteria and must be in critical medical need of cooling.

B. Benefits.

The assistance is limited to: no more than \$200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than \$400 for purchasing an air conditioner.

PART V. ADMINISTRATIVE COSTS.

§ 5.1. Local administrative expenditures for the implementation of the Energy Assistance Program shall not be reimbursed in excess of 7.0% of the program grant allocation.

DEPARTMENT OF THE TREASURY (THE TREASURY BOARD)

Title of Regulation: VR 640-02. Virginia Security for Public Deposits Act Regulations.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until July 19, 1991.

(See Calendar of Events section for additional information)

Summary:

A. Amendments.

These regulations amend and supersede the regulations adopted March 18, 1987.

The Virginia Security for Public Deposits Act (the Act), Code of Virginia, §§ 2.1-359 through 2.1-370, creates a single body of law applicable to providing for the pledge of securities as collateral for public funds on deposit in financial institutions. The Act authorizes the Treasury Board to make and enforce regulations necessary and proper to carry out its responsibilities under the Act. Pursuant to this authority, the Treasury Board previously adopted Virginia Security for Public Deposits Act Regulations (VR 640-02).

The following regulations amend various sections of VR 640-02. The amended regulations are necessary to provide adequate protection for public funds on deposit in financial institutions in light of recent changes in institutions and in the types of securities being pledged as collateral under the Act.

The amendment to § 4 allows the Treasury Board to increase the required collateral of any and all savings institutions above 100% of the public deposits held. The amendment to § 7 states that pledged securities which are difficult to value or subject to rapid decline in value may be valued at less than their market value. The amendment to § 8 permits the Treasury Board to select a single escrow agent to hold pledged collateral and requires public deposits to be collateralized at all times. The new § 13 clarifies that a depository who no longer has the authority to receive public deposits is still subject to the provisions of the Act and the regulations as long as it continues to hold public deposits. Other changes to the regulations and the accompanying forms are either clarifying or cosmetic in nature or necessary to conform with statutory changes.

B. Background.

Upon its effective date of January 1, 1974, the Security for Public Deposits Act superseded all other existing statutes concerning security for public deposits and established a single body of law to provide a procedure for securing such deposits that is uniform throughout the Commonwealth. The Act does not, of itself, require security for any public deposit, and thus the statutes previously existing continue in effect insofar as they require certain deposits to be secured. All deposits that are required to be secured, whether by statute, by charter provision, or by the custodian of the fund, must be secured pursuant to the Act. No alternate method of securing such deposits may be utilized.

The primary responsibility for determining that the Act is being complied with rests upon the financial

Proposed Regulations

institutions that accept and hold public deposits. If a financial institution officer is unable to ascertain whether a particular deposit is a "public deposit" for purposes of the Act he should obtain the essential details and communicate with the public depositor, the financial institution's counsel, or the State Treasurer's office. If the deposit is a "public deposit" the pertinent inquiry is whether the deposit either must be secured pursuant to the Code of Virginia, or whether the public depositor elects to require security for the deposit.

All moneys deposited by the State Treasurer must be secured pursuant to §§ 2.1-210 and 2.1-211 of the Code of Virginia. All county and city moneys deposited by a county of city treasurer or other public depositor must be secured pursuant to § 58.1-3158 of the Code of Virginia.

If security is not required by law, but the deposit is within the statutory definition of a public deposit, the treasurer or custodian of the moneys may elect to require security. If the amount of the deposit is less than the maximum amount of deposit insurance applicable, there is no need for the treasurer or custodian to require security because the financial institution will deduct the maximum amount of federal deposit insurance applicable to the account and secure only the excess which is not covered by the insurance. If the deposit exceeds the amount of insurance, the treasurer or custodian may decide that the deposit should be secured. In such event, he must communicate his election to the proper officer of the financial institution at the time a deposit is made. The financial institution may require the election to be manifested in writing on a form approved by the Treasury Board. A copy of the form will be retained by the treasurer of the financial institution, and a copy will be forwarded to the State Treasurer.

C. Definition of participants.

The three major participants in the scheme of activities required by the Act are defined as follows:

1. Qualified public depositories. Any national banking association, federal savings and loan association or federal savings bank located in Virginia and any bank, trust company or savings and loan association organized under Virginia law that receives or holds public deposits which are secured pursuant to the Act.

2. Treasurers or public depositors. The State Treasurer, a county, city, or town treasurer or director of finance or similar officer and the custodian of any other public deposits secured pursuant to the Act.

3. Treasury Board. The Treasury Board of the Commonwealth created by § 2.1-178 of the Code of

Virginia consisting of the State Treasurer, the State Comptroller, the State Tax Commissioner and four citizen members appointed by the Governor.

D. Treasury Board duties, powers and responsibilities.

The Treasury board is granted authority to make and enforce regulations necessary and proper to the full and complete performance of its functions under the Act pursuant to § 2.1-364. The board may require additional collateral of any and all depositories, may determine within the statutory criteria what securities shall be acceptable as collateral, and may fix the percentage of face value or market value of such securities that can be used to secure public deposits. The board may also require any public depository to furnish information concerning its public deposits and fix the terms and conditions under which public deposits may be received and held. In the event of a default or insolvency of a public depository holding secured public deposits, the board may take such action as it may deem advisable for the protection, collection, compromise or settlement of any claim.

E. Administration.

The Treasury Board has designated the State Treasurer to be the chief administrative officer with respect to the provisions of the Act. Inquiries and correspondence concerning the Act should be directed to:

*Treasurer of Virginia
P.O. Box 6-H
Richmond, Virginia 23215*

F. Effective Date.

The Act became effective January, 1974, and was amended effective April 8, 1987. Emergency regulations are effective from November 1, 1990, through October 31, 1991.

VR 640-02. Virginia Security for Public Deposits Act Regulations.

§ 1. General.

The definitions provided by § 2.1-360 of the Code of Virginia, shall be used throughout these regulations unless the context requires otherwise.

§ 2. Effective date.

These regulations, as amended, shall be effective on and after ~~March 18, 1987~~ *October 31, 1991*.

§ 3. Required collateral for banks.

~~A.~~ The required collateral of a national or state chartered bank to secure public deposits shall be

etermined according to the following applicable criteria and shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value for collateralization purposes not less than:

1. *Fifty percent.* Fifty percent of the actual public deposits held at the close of business on the last banking day in of the preceding reporting month, or 50% of the average balance of all public deposits for the preceding reporting month, whichever is greater;

2. *Seventy-five percent.* In the event that a bank's average daily public deposits for the reporting month exceed one-fifth of its average daily total deposits, the required collateral will be Seventy-five percent 75% of the bank's average daily balance for the preceding month or the actual public deposits held as aforesaid, at the close of business on the last banking day of the reporting month, or 75% of the average balance of all public deposits for the reporting month, whichever is greater ; in the event that the bank's average daily public deposits for the preceding month exceed one-fifth of its average daily total deposits ;

3. *One hundred percent.* In the event that a bank's average daily public deposits for the reporting month exceed one-fifth of its average daily total deposits and the bank has not been actively engaged in the commercial banking business for at least three years, or in the event that a bank's average daily public deposits for the reporting month exceed one-third of its average daily total deposits, or in the event that a bank has not been actively engaged in the commercial banking business for at least one year, the required collateral will be One hundred percent 100% of the bank's average daily balance for the preceding month or the actual public deposits held ; as aforesaid, at the close of business on the last banking day of the reporting month, or 100% of the average balance of all public deposits for the reporting month, whichever is greater . ; in the event that the bank's average daily public deposits for the preceding month exceed one-fifth of its average daily total deposits and the bank has not been actively engaged in the commercial banking business for at least three years;

4. One hundred percent of the bank's average daily balance for the preceding month or the actual public deposits held, as aforesaid, whichever is greater, in the event that the bank's average daily public deposits for the preceding month exceed one-third of its average daily total deposits;

5. One hundred percent of the bank's average daily balance for the preceding month or the actual public deposits held, as aforesaid, whichever is greater, in the event the bank has not been actively engaged in the commercial banking business for at least one year;

6. Or, in In the event that the a bank has repeatedly

violated the pledging statutes and regulations or for other reasons deemed sufficient, the Treasury Board may increase the bank's ratio of required collateral to 100% of its actual public deposits.

§ 4. Required collateral for savings and loan associations or savings banks savings institutions .

The required collateral of a savings and loan association shall mean a sum equal to 100% of the average daily balance for the preceding month of all public deposits held by such depository but shall not be less than 100% of the public deposits held by such depository at the close of business on the last banking day in the preceding month.

The required collateral of a savings institution to secure public deposits shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value, for collateralization purposes, not less than a sum equal to 100% of the average daily balance of public deposits held by such savings institution for the reporting month, but shall not be less than 100% of the public deposits held by such savings institution at the close of business on the last banking day of the reporting month.

In the event that a savings institution has violated the pledging statutes and regulations, or for other reasons deemed sufficient, the Treasury Board may increase such savings institution's ratio of required collateral above 100% of its actual public deposits.

§ 5. Average daily balance computation.

The average daily balance for any month of all public deposits held during the month shall be derived by dividing the total sum of the daily balances of such deposits for the month by the number of calendar days in the month.

In computing the amount of public deposits and the average balance of public deposits to be collateralized during any month, there shall be excluded the amount of each deposit which is insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation federal deposit insurance .

§ 6. Eligible collateral.

A. Securities eligible for collateral are limited to:

1. Obligations of the Commonwealth. Bonds, notes and other evidences of indebtedness of the State of Virginia, and securities unconditionally guaranteed as to the payment of principal and interest by the State of Virginia.

2. Obligations of the United States ; etc . Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States,

Proposed Regulations

or any agency thereof.

3. Obligations of Virginia counties, cities, etc. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the State of Virginia upon which there is no default ; provided that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or those unconditionally guaranteed as to the payment of principal and interest by , the county, city, town, district, authority or other public body in question ; and revenue bonds issued by agencies or authorities of the State of Virginia or its political subdivisions upon which there is no default ; and which are rated BBB or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

4. Obligations of International Bank for Reconstruction and Development , *African Development Bank* and Asian Development Bank. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development and bonds and other obligations issued, guaranteed or assumed by the *African Development Bank*, or by the Asian Development Bank.

5. Obligations partially insured or guaranteed by any U.S. Government Agency.

6. Obligations (including revenue bonds) of states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

7. Corporate Notes rated AA by both Standard & Poor's and Moody's with a maximum maturity of ten years.

8. Any additional securities approved by the Treasury Board pursuant to § 2.1364(d).

B. No security which is in default as to principal or interest shall be acceptable as collateral.

C. No financial institution shall utilize securities issued by itself, its holding company, or any affiliate for purposes of collateralizing its public deposits.

D. Securities excluded by action of the Treasury Board pursuant to § 2.1-364(d) shall not be acceptable.

§ 7. Valuation of collateral.

Each financial institution shall value its securities for reporting purposes at their current asset market value in accordance with the following method: At the market value as of the close of business on the last banking day in of the preceding reporting month ; except that any

extraordinary decline in value between such day and the date of mailing the monthly report to the Treasury Board shall be considered and used for reporting purposes . In the event the market value of the collateral declines by 10% or more between said date and the date of submitting the monthly report to the Treasury Board, the market value on the submission date shall be used to determine any additional collateral requirements.

The State Treasurer, upon written notice to any or all financial institutions, may require as deemed necessary for reporting purposes that certain securities that are difficult-to-value or subject to rapid decline in value or otherwise represent a risk of decrease in value be valued at a rate less than 100% of their market value.

§ 8. Deposit of collateral.

No qualified public depository shall accept or retain any public deposit which is required to be secured unless it has previously executed a "Public Deposit Security Agreement" and deposited eligible collateral, as defined in these regulations, equal to its required collateral, determined as herein provided, with an escrow agent or agents approved by the Treasury Board.

Whether or not a depository has eligible collateral deposited as heretofore provided at the time it receives a public deposit, if such deposit would result in an increase in the depository's required collateral computed as of the day on which the deposit is received, such depository shall immediately deposit sufficient securities to increase its collateral to an amount equal to that determined pursuant to § 3 or § 4 of these regulations, whichever is applicable, utilizing the depository's actual public deposits held at the close of business on the day such deposit is received in lieu of those held at the close of business on the last banking day in the preceding calendar month. Written notice of deposit of collateral shall be submitted to the State Treasurer.

At the time of the deposit of registered securities, the qualified public depository owning the securities shall attach appropriate bond power forms as required to allow the State Treasurer to transfer ownership of such registered securities for the purpose of satisfying the depository's liabilities under the Act in the event the collateral needs to be liquidated.

§ 8. § 9. Substitution of eligible collateral.

A substitution of eligible collateral may be made by the depository financial institution at any time provided that the market value of the securities substituted is equal to or greater than the market value of the securities withdrawn.

At the time of making a substitution, the depository financial institution shall prepare a request for the substitution upon a form approved by the State Treasurer and deliver the original to the escrow bank and a copy ;

he State Treasurer. The escrow bank shall not allow a substitution unless the market value of the securities to be substituted is equal to or greater than the market value of the securities to be withdrawn. *In the event the market value of the substituted collateral is not equal to or greater than the value of the securities to be withdrawn, the depository shall receive written approval of the State Treasurer.*

§ 9. § 10. Withdrawal of collateral.

A financial institution shall not be permitted to withdraw collateral previously pledged without the prior approval of the State Treasurer. The State Treasurer may grant such approval only if the financial institution certifies in writing that such withdrawal will not reduce its collateral below its required collateral as defined by these regulations, and this certification is substantiated by a statement of the financial institution's current public deposits which indicates that after withdrawal such deposits will continue to be secured to the full extent required by the law and regulations. *A The escrow bank or trust company holding securities as collateral for another financial institution shall not permit the depositing financial institution to withdraw same collateral without the written approval of the State Treasurer.*

§ 10. § 11. Reports by qualified public depositories.

Within 10 business days after the end of each *every* month each qualified public depository shall submit to the State Treasurer a written report, under oath, indicating the total amount of public deposits held by it at the close of business on the last business day in the *preceeding* reporting month ; and ; *the average daily balance for such month of all secured public deposits held by it during the month ; together with a detailed schedule of pledged collateral at its current asset value, determined pursuant to § 7 of these regulations, at the close of business on the last business day in such month. This report shall indicate the name of the escrow agent holding the collateral and its location and shall contain the amount of the financial institution's required collateral as of the close of business on the last business day in such month ; the average balance of all bank deposits for the reporting month; the total required collateral; and the total par value and market value of collateral. Included with this report shall be a detailed schedule of pledged collateral at its current market value, determined pursuant to § 7 of these regulations .*

At the request of any public depositor for which it holds deposits, within 10 business days after the end of any month, the qualified public depository shall submit a statement indicating the total secured public deposits in each account to the credit ~~of~~ of such depositor on the last business day in the month and the total amount of all secured public deposits held by it upon such date.

Within the first 10 business days of each calendar quarter ~~the~~ every qualified public depository shall submit

to each public depositor for whom it holds secured public deposits ; a report indicating the account number and amount of deposit as of the close of business on the last banking day of the calendar quarter being reported. *A At the same time a copy of said report shall be submitted to the State Treasurer at the same time .*

§ 11. Deposit of collateral.

No qualified public depository shall accept or retain any public deposit which is required to be secured unless it has previously executed a "Public Deposit Security Agreement", and deposited eligible collateral, as defined in these regulations, equal to its required collateral, determined as herein provided; with (i) the Federal Reserve Bank of Richmond; (ii) The Federal Home Loan Bank of Atlanta; (iii) a bank or trust company located within Virginia which is not a subsidiary of the depository's parent holding company, or (iv) a bank or trust company located outside Virginia which has been approved by the Treasury Board.

Whether or not a depository has eligible collateral deposited as heretofore provided at the time it receives a public deposit, if such deposit would result in an increase of 10% or more in the depository's required collateral computed as of the day on which the deposit is received, such depository shall immediately deposit sufficient securities to increase its collateral to an amount equal to that determined pursuant to paragraphs (1) through (6) of § 3, or § 4, of these regulations, whichever is applicable, but utilizing the depository's actual public deposits held at the close of business on the day such deposit is received in lieu of those held at the close of business on the last banking day in the preceding calendar month.

Except as provided in the preceding paragraph, each qualified public depository shall increase its collateral deposit on or before the day its monthly report is required to be submitted to the State Treasurer pursuant to § 10 of these regulations if such report indicates that the depository's required collateral is in excess of the collateral previously deposited in accordance with its preceding monthly report.

At the time of the deposit of registered securities, the qualified public depository owning the securities shall attach appropriate bond power forms as required to allow the State Treasurer to transfer ownership of such registered securities for the purpose of satisfying the depository's liabilities under the Act in the event the collateral needs to be liquidated.

§ 12. Reports by State Treasurer.

The State Treasurer shall report to the auditors of any public depositor, upon their request, the status of any public depository's collateral account and compliance with the reporting requirements of the Act. The State Treasurer shall notify any public depositor that maintains accounts with any bank or savings ~~and loan~~ institution of any

Proposed Regulations

irregularities, including, but not limited to, the late filing of the required monthly reports or of deficiencies in the financial institution's eligible collateral at any time. The Treasury Board shall be notified of the sending of any reports of irregularities required herein no later than at its next regularly scheduled meeting.

§ 13. Suspension of authority to receive public deposits.

For failure to comply with the Act or the regulations, the Treasury Board may remove from a qualified public depository the authority to receive further public deposits. Such depository remains fully subject to the provisions of the Act and the regulations as to any public deposits that it continues to hold during a period of removal of its authority to receive further public deposits, including without limitation the collateralization and reporting requirements, and continues to be deemed a qualified public depository for purposes of § 2.1-363 of the Act.

§ 14. Exception reports by public depositors.

Upon receipt of the quarterly public depositor report, as stated in § 11, the public depositors will notify the State Treasurer of any unresolved discrepancy between the information provided and the public depositors' records.

NOTICE: The forms used in administering the Department of the Treasury Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of the Treasury, 101 N. 14th Street, 3rd Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Form No. 1001 Treas. "Public Deposit Security Agreement"

Form No. 1002 Treas. "Public Deposit Safekeeping Agreement"

Form No. 1004 Treas. "Notice of Election to Require Security for Public Deposits"

Exhibit 3 "Public Depository Monthly Report" (with Schedule "A")

Exhibit 4 Listing of public depositor information

Exhibit 5 "Withdrawal of Collateral"

Exhibit 6 "Deposit of Collateral"

Exhibit 7 "Request for Substitution of Collateral"

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-03-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Stewards.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: June 19, 1991 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation is to establish the duties, responsibilities and powers of the stewards who shall oversee the conduct of horse racing with pari-mutuel wagering.

VR 662-03-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Stewards.

§ 1. Definitions.

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

"Disciplinary action" means an action taken by the stewards or the commission for violation of federal or state law, local ordinance, or the regulations of the commission and may include any of the following:

1. Revocation of a permit;
2. Suspension of a permit;
3. Assessment of a fine;
4. Reprimand;
5. Probation; and
6. Any combination of the above.

"Disqualification" means a ruling by the stewards which revises the order of finish of a race.

"Fine" means a form of disciplinary action where a pecuniary punishment is imposed on the holder of a permit by the stewards or commission.

"Inquiry" means an investigation into the conduct of a race which is initiated by the stewards prior to declaring a race "official."

"Objection" means a complaint filed by an owner, trainer, jockey or driver against another horse, jockey or driver after a race but prior to the race being declared "official."

"Probation" means for a stipulated period a holder of a permit shall conduct himself according to terms and

conditions established by the stewards.

"Protest" means a written statement filed before a race objecting to the eligibility of a horse or holder of a permit to participate in a race.

"Reprimand" means a form of disciplinary action where the holder of a permit is reproved severely in writing by the stewards or the commission.

"Revocation" means a form of disciplinary action where the permit of a holder is recalled by the stewards or the commission.

"Suspension" means a form of disciplinary action where the permit of a holder is temporarily withdrawn by the stewards or the commission.

§ 2. Appointment.

There shall be three stewards for each race meeting licensed by the commission. Two of the stewards shall be appointed by the commission and the third shall be appointed by the licensee. The licensee shall disclose its nominee for steward to the commission no later than 45 days prior to the commencement of the race meeting. No steward shall be appointed by a licensee unless first approved by the commission.

§ 3. Senior Commonwealth Steward.

One of the two stewards appointed by the commission shall be designated as the Senior Commonwealth Steward. The Senior Commonwealth Steward shall preside at all informal fact-finding proceedings conducted by the stewards.

§ 4. Authority.

The stewards for each race meeting licensed by the commission shall be responsible to the commission for the conduct of the race meeting in accordance with the Code of Virginia and the regulations of the commission. The stewards shall have authority over all holders of permits and shall have authority to resolve conflicts or disputes that are related to the conduct of racing.

§ 5. General powers.

The stewards shall exercise immediate supervision, control and regulation of horse racing at each race meeting licensed by the commission and shall be responsible to the commission. The powers of the stewards shall include:

1. Determining all questions, disputes, protests, complaints, or objections concerning horse racing which arise during a race meeting and enforcing their rulings;

2. Taking disciplinary action against any holder of a

permit found violating federal laws, state laws, local ordinances or regulations of the commission;

3. Reviewing applications for permits and either granting or denying the permits;

4. Enforcing the regulations of the commission in all matters pertaining to horse racing;

5. Issuing rulings pertaining to the conduct of horse racing;

6. Varying any arrangement for the conduct of a race meeting including but not limited to postponing a race or races, canceling a race, or declaring a race "no contest."

7. Requesting assistance from other commission employees, racing officials, members of industry or the licensee's security service in the investigation of possible rule infractions;

8. Conducting informal fact-finding proceedings on all questions, disputes, protests, complaints, or objections concerning racing matters; and

9. Substituting another qualified person where any permit holder is unable to perform his duties.

§ 6. Duties.

In addition to the duties necessary and pertinent to the general supervision, control and regulation of race meetings, the stewards shall have the following specific duties:

1. Causing investigations to be made in all instances of possible violations of federal laws, state laws, local ordinances and regulations of the commission;

2. Being present within the enclosure no less than 90 minutes before post time of the first race and remaining until 15 minutes after the last race is declared "official";

3. Being present in the stewards' stand during the running of all races;

4. Administering examinations for applicants applying for permits as trainers, jockeys, apprentice jockeys or farriers to determine the applicants qualifications for the permits;

5. Determining the identification of horses;

6. Determining eligibility of horses for restricted races to Virginia-breds;

7. Determining eligibility of a horse or person to participate in a race;

Proposed Regulations

8. *Supervising the taking of entries and the drawing of post positions;*

9. *Approving or denying requests for horses to be excused from racing;*

10. *Locking the totalizator at the start of the race so that no more pari-mutuel tickets may be sold;*

11. *Determining alleged violations of these regulations in the running of any race through their own observation or by patrol judges and posting the "inquiry" sign on the infield results board where there are alleged violations;*

12. *Determining alleged violations of these regulations in the running of any race brought to their attention by any participant and posting the "objection" sign on the infield results board where there are alleged violations;*

13. *Causing the "official" sign to be posted on the infield results board after determining the official order of finish for the purposes of the pari-mutuel payout;*

14. *Reviewing the video tapes of the previous day's races and determining the jockeys whom the stewards feel should review the films for instructional purposes;*

15. *Making periodic inspections of the facilities within the enclosure including but not limited to the stable area, paddock, jockeys' room;*

16. *Reporting their findings of their periodic inspections of the facilities to the commission;*

17. *Filing with the commission a written daily report which shall contain a detailed written record of all questions, disputes, protests, complaints or objections brought to the attention of the stewards, a summary of any interviews relating to these actions, copies of any rulings issued by the stewards, and any emergency actions taken and the basis for the actions; and*

18. *Submitting to the commission after the conclusion of the race meeting a written report setting out their findings on the conduct of the race meeting, the condition of the facilities and any recommendation for improvement that they deem appropriate.*

§ 7. Objections and protests.

The stewards receive and hear all objections lodged by jockeys or drivers after the completion of a race, and all protests lodged by holders of a permit before or after the completion of a race under the following provisions:

1. *The stewards shall keep a written record of all objections and protests;*

2. *Jockeys shall indicate their intention of lodging a objection immediately upon arriving at the scales to weigh in;*

3. *Drivers shall indicate their intention of lodging an objection immediately after the race by reporting to the patrol judge;*

4. *If the placement of the starting gate or line is in error, a protest must be made prior to the time that the first horse enters the starting gate or line;*

5. *Protests, other than those arising out of the running of a race, shall be in writing, clearly stating the nature of the protest, signed by the holder of a permit making the protest, and filed with the stewards at least one hour before post time of the race out of which the protest arises;*

6. *Protests, arising out of the running of a race, must be made to the stewards as soon as possible after the completion of the race but before the race is declared official and the stewards may call and examine any witness;*

7. *Until a final determination is made on an objection or protest and any administrative remedies and all appeals thereof are exhausted, the purse money for the race shall be retained by the horsemen's bookkeeper or licensee and paid only upon the approval of the stewards or commission; and*

8. *A holder of a permit may not withdraw a protest without the permission of the stewards.*

§ 8. Period of authority.

The period of authority shall commence at a period of time prior to the race meeting and shall terminate at a period of time after the end of the race meeting as designated by the commission.

§ 9. Appointment of substitute.

If any steward is absent at the time of the running of the race or is otherwise unable to perform his duties, the other two stewards shall agree on the appointment of a substitute to act for the absent steward. If a substitute is appointed, the commission shall be notified immediately followed by a written report, stating the name of the deputy steward, the reason for his appointment, and the races over which the substitute officiated.

§ 10. Initiate action.

The stewards may, from their observations, take notice of misconduct or violation of these regulations and institute investigations and disciplinary proceedings regarding possible violations of these regulations.

§ 11. Informal fact-finding proceedings.

Informal fact-finding proceedings conducted by the stewards includes the following:

1. The Senior Commonwealth Steward shall preside at the informal fact-finding proceeding;
2. The stewards may issue subpoenas to compel the attendance of witnesses or for the production of reports, books, papers, registration documents or any other materials they deem appropriate;
3. The stewards shall administer oaths to all witnesses;
4. The stewards may examine any witnesses at informal fact-finding proceedings;
5. Written notice shall be given to the holder of a permit in a reasonable time prior to the informal fact-finding proceeding;
6. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;
7. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses;
8. The stewards may grant a continuance of any informal fact-finding proceeding for good cause; and
9. A recording of the proceedings shall be made and forwarded to the commission in the event of a request for a formal hearing.

§ 12. Emergency authority.

The stewards, in their discretion, may exercise emergency authority within the enclosure of a horse racing facility licensed by the commission under the following provisions:

1. When any racing official is unable to discharge his duties, the stewards may appoint a substitute;
2. The stewards may name a substitute jockey or driver for any horse;
3. The stewards may designate a substitute trainer for any horse; and
4. In the event of illness or injury to a horse or any other emergency before the start of a race, the stewards may excuse the horse from racing.

§ 13. Multiple wagering pools.

When the stewards determine that there is an irregular pattern of wagering or determine that the conduct of a

race would not be in the best interests of horse racing in the Commonwealth, they have the authority to cancel any multiple wagering pool. The stewards shall submit a written report to the commission of every cancellation of a multiple wagering pool.

§ 14. Form reversal.

The stewards shall take notice of any reversal of form by any horse and shall conduct an inquiry of the horse's owner, trainer, jockey or driver, or other persons connected with the horse including any person found to have deliberately restrained or impeded a horse in order to cause it not to win or finish as near as possible to first.

§ 15. Extent of disqualification.

The stewards, in their discretion, may determine the extent of any disqualification and may place any disqualified horse behind others in the race with which it interfered or may place the offending horse last in the race.

§ 16. Disqualification of entry.

The stewards, in their discretion, may disqualify a coupled entry when they determine the act that led to the disqualification served to unduly benefit the other horse or horses in the coupled entry.

§ 17. Orders following disciplinary actions.

Any disciplinary action taken by the stewards or the commission shall be made in writing to the holder of a permit, setting forth the federal or state law, local ordinance or regulation that was violated, the date of the violation, the factual or procedural basis of the finding, the extent of the disciplinary action taken, and the date when the disciplinary action is to take effect. The order following disciplinary action may be hand delivered or mailed to the holder of the permit, but in either case, shall be duly acknowledged by the holder of a permit.

§ 18. Fines.

All fines imposed by the stewards or commission shall be payable within 72 hours, excluding Saturdays, Sundays or holidays. Fines shall be payable in cash, checks or money orders.

* * * * *

Title of Regulation: VR 662-03-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: June 19, 1991 - 9:30 a.m.
(See Calendar of Events section)

Proposed Regulations

for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation establishes the duties and responsibilities of the commission veterinarian.

VR 662-03-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian.

§ 1. Generally.

The Virginia Racing Commission shall appoint a commission veterinarian who shall be a graduate of an accredited school of veterinary medicine and in possession of a full and unrestricted license from the Virginia Board of Veterinary Medicine. The commission, in its discretion, may appoint assistant veterinarians and personnel to assist the commission veterinarian in the carrying out of his duties and responsibilities.

§ 2. Restrictions.

The commission veterinarian or his assistant veterinarians shall not be permitted to treat or prescribe for any horse within the enclosure or any horse that may be entered to race. However, this shall not preclude the commission veterinarian or his assistant veterinarians from rendering care in an emergency situation. When emergency care is rendered, the veterinarian shall submit a written report to the commission.

§ 3. Duties.

The commission veterinarian shall perform those duties assigned to him by the commission, the executive secretary of the commission, and the stewards. His duties shall include but not be limited to:

- 1. Ensuring that all horses within the enclosure are treated in a humane manner and reporting any case of animal abuse or neglect to the stewards;*
- 2. Reviewing the daily written reports submitted by practicing veterinarians;*
- 3. Making prerace examinations of the horses entered to race on that day's program and recommending to the stewards that horses found to be unfit for racing be excused;*
- 4. Recommending that sick and injured horses be placed on the stewards' list;*
- 5. Advising the stewards on the condition of horses that are coming off the stewards' list;*

6. Supervising the collection of samples and the proper operation of the detention barn;

7. Approving the lists of medications and preparations submitted by pharmaceutical representatives prior to their sale within the enclosure;

8. Being present at scratch time of each racing day to inspect any horses requested by the stewards and report on their fitness for racing;

9. Giving the stewards his opinion of a horse's condition and recommendation relative to the horse's fitness for racing; and

10. Reporting to the stewards the names of all horses euthanized at the race meeting and the reasons.

§ 4. Prohibitions.

No holder of a permit shall employ or pay compensation or any gratuity to any veterinarian, either directly or indirectly, during the term of his employment with the commission. .

* * * * *

Title of Regulation: VR 662-03-05. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: June 19, 1991 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation is to establish the procedures under which a holder of a permit may appeal a decision of the stewards to the commission for a formal hearing.

VR 662-03-05. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings.

§ 1. Generally.

A holder of a permit who wishes to contest a disciplinary action of the stewards may request a formal hearing by the commission. A disciplinary action taken by the stewards shall not be stayed or superseded by the filing of a request for a formal hearing unless the commission so orders. A stay in the implementation of a disciplinary action may be granted by the executive secretary of the commission.

§ 2. Where to file a request.

A request for a formal hearing shall be sent by certified mail or hand delivered to the main office of the commission.

1. A request for a formal hearing must be submitted within 72 hours of receipt of the order being contested by the holder of a permit, excluding Saturdays, Sundays and holidays;
2. A request for a formal hearing must be delivered by certified mail or by hand and will be timely only if received at the main office of the commission by 5 p.m. on or before the date prescribed;
3. Delivery to other than the main office of the commission or to other commission personnel is not effective; and
4. The holder of a permit assumes full responsibility for the method chosen to file a request for a formal hearing.

§ 3. Content of request.

The request shall state:

1. The disciplinary action of the stewards being contested;
2. The basis for the request; and
3. Any additional information the holder of a permit may wish to include concerning the request.

§ 4. Withdrawal of a request.

A holder of a permit may withdraw a request, which has been filed with the commission, by submitting a written statement to the main office of the commission within 72 hours of filing a request declaring his intention to withdraw the request. The commission, in its discretion, may accept or reject a request to withdraw a request.

§ 5. Procedures for conducting a formal hearing.

The commission shall conduct a formal hearing within 45 days of receipt of a request for a formal hearing on a disciplinary action taken by the stewards. The following provisions shall apply to formal hearings:

1. If any commissioner determines that he has a conflict of interest or cannot accord a fair and impartial hearing, that commissioner shall not take part in the hearing;
2. The commissioners, in their discretion, may appoint an independent hearing officer to preside at the formal hearing and prepare a proposed written

decision for their consideration;

3. Unless the parties otherwise agree, a notice setting the hearing date, time and location shall be sent to the holder of a permit at least 10 days before the date set for the hearing;

4. The formal hearing shall be open to the public.

a. The hearing shall be electronically recorded and the recordings will be kept until any time limits for any subsequent court appeals have expired.

b. A court reporter may be used. The court reporter shall be paid by the person who requests him. If the holder of a permit elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

c. The provisions of §§ 9-6.14:12 through 9-6.14:14 of the Administrative Process Act shall apply with respect to the rights and responsibilities of the holder of a permit and of the commission.

5. The formal hearing is a hearing on the record of the informal fact-finding proceeding and not a new hearing; therefore, presentations by both sides will be limited to arguments and comments regarding the record of the informal fact-finding proceeding.

6. The commission, in its discretion, may allow new evidence to be introduced which, through the exercise of reasonable diligence, could not have been found at the time of the informal fact-finding proceeding.

§ 6. Decision by commission.

The commission's decision shall be in writing and shall be sent to the holder of a permit by certified mail, return receipt requested. The original written decision shall be retained by the commission and become part of its records.

1. Prior to rendering its decision, the parties to the formal hearing shall be given the opportunity, on request, to submit in writing for the record proposed findings and conclusions and statements of reasons therefor.

2. If the commission has appointed a hearing officer to preside at the formal hearing, the commission shall consider the proposed written decision of the hearing officer and any exceptions filed thereto after which the commission may adopt, modify or reject the hearing officer's proposed decision.

3. The commission's decision shall briefly state the findings, conclusions, reasons, or basis therefor upon the evidence presented by the record and relevant to the basic law under which the commission is

Proposed Regulations

operating together with the appropriate order, permit, grant of benefits, sanction, relief or denial thereof.

* * * * *

Title of Regulation: VR 662-04-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: June 19, 1991 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation is to establish the conditions under which horses may be identified, determined eligible for racing and may be barred for racing.

VR 662-04-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses.

§ 1. Generally.

The conduct of horse racing, with pari-mutuel wagering, shall be safe to the participants and humane to the horses as well as being of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices.

§ 2. Registration requirements.

No horse may start in a race unless the horse's certificate of foal registration, eligibility certificate or other registration document from the appropriate breed registry is on file with the racing secretary. The certificate of foal registration, eligibility certificate or other registration document must be filed with the racing secretary by the owner, or in his absence by his trainer or authorized agent before the horse may start in a race. However, the stewards may for good cause, in their discretion, waive this requirement, if the horse is otherwise correctly identified to the stewards' satisfaction and the complete past performances of the horse are available to the public. When the stewards waive this requirement, they must submit written notification to the commission.

§ 3. Lip tattoo requirements.

No horse may start in a race without a legible lip tattoo number being applied by the designated personnel appropriate to the breed of horse.

§ 4. Names of horses.

No horse may be entered or raced under any other name than the name listed on its certificate of foal registration, eligibility certificate or other registration document. In the event a horse's name is changed, the horse's former name shall be shown parenthetically in the daily race program the first three times the horse races after its name is changed. In the event a horse is named after completing published workouts, it shall be the trainer's responsibility to notify the stewards and racing secretary of the horse's name so that the published workouts may be correctly attributed and the public notified.

§ 5. Ringers.

No horse may be entered or raced, if it has been determined that the horse was knowingly entered or raced under a name other than its own by the owner or trainer at the time the horse was entered or raced. No horse may be entered or raced, if it has been determined that the owner or trainer knowingly participated in or assisted in the entry or racing of some other horse under the horse's name.

§ 6. Concealed identity or ownership.

No person shall, at any time, cause or permit the correct identity or ownership of a horse to be concealed or altered, and no person shall refuse to reveal to any racing official the correct identity or ownership of any horse he owns or trains.

§ 7. Nerved horses.

No horse that has been "high nerved" may be entered or raced. A horse that has been "low heel nerved" may be entered and raced. The following provisions shall apply to horses that have been "high nerved" or "low heel nerved":

- 1. A "high nerved horse" means a horse whose nerves have been desensitized by any means at or above the fetlock, including volar, palmar or plantar nerves;*
- 2. Lack of feeling at the coronary band at the front of the foot is prima facie evidence that a horse has been nerved in contravention of this regulation;*
- 3. Incisions over nerves at or above the fetlock are evidence that the horse has been "high nerved," even if partial or complete feeling is present at the front of the coronary band of the foot;*
- 4. A "low heel nerved horse" means a horse whose posterior branch only of the palmar digital nerves have been desensitized by any means below the fetlock;*
- 5. A horse that has been "low heel nerved" must have the procedure designated on its certificate of foal registration, eligibility certificate, or othe*

registration document, and this designation must be certified by the practicing veterinarian who performed the procedure;

6. The primary responsibility rests with the owner to see that the certificate of foal registration, eligibility certificate or other registration document is properly designated and certified by the practicing veterinarian when a horse is low nerved;

7. Prior to being entered, a horse, that has been "low heel nerved" must be examined and approved by the commission veterinarian for racing;

8. The racing secretary shall maintain a list of horses that have been "low heel nerved" and shall cause this list to be prominently displayed in the racing office; and

9. The primary responsibility rests with the trainer to see that all horses, that have been "low heel nerved" and are under his supervision, are immediately added to the list of nerved horses maintained by the racing secretary.

§ 8. Certificate of veterinary inspection.

An official test for equine infectious anemia is required and must be conducted by a laboratory approved by the United States Department of Agriculture for each horse within the enclosure. The following provisions shall apply:

1. Horses entering the Commonwealth of Virginia must be accompanied by an official Certificate of Veterinary Inspection signed by an accredited veterinarian. This certificate shall give an accurate description of each horse;

2. The Certificate of Veterinary Inspection shall indicate that each horse has been officially tested and found negative for equine infectious anemia within the past 12 months. The test must be valid to cover the time the horse is expected to be within the enclosure;

3. Horses originating in the Commonwealth of Virginia must be accompanied by a report of an official negative test for equine infectious anemia conducted within the past 12 months. The test must be valid to cover the time the horse is expected to be within the enclosure;

4. For the purposes of this regulation, an "approved laboratory" means a laboratory approved by the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture;

5. For the purposes of this regulation, an "accredited veterinarian" means a veterinarian approved by the Deputy Administrator to perform functions required

by cooperative state-federal disease control and eradication programs;

6. The Certificate of Veterinary Inspection or report of an official negative test shall be attached to the certificate of foal registration, eligibility certificate or other registration document; and

7. The primary responsibility for the presentation of the foregoing documents shall rest with the owner of the horse or his trainer or authorized agent.

§ 9. Vision.

No horse may be entered or raced unless it has unimpaired vision in at least one eye. No horse currently afflicted by ocular disease affecting its vision may be entered or raced.

§ 10. Published workouts.

Except as may be specifically exempted by the commission, no horse may be entered or raced unless its most recent workouts have been recorded and made generally available to the public by being prominently displayed in the grandstand and clubhouse or published in periodicals of general circulation. The following provisions shall apply to published workouts:

1. No horse may be entered to race for the first time in its life unless it has a minimum of two published workouts;

2. No horse may start in a race unless it has a published workout within the past 30 days or has raced within the past 30 days; and

3. No horse may start in a race unless the stewards, in their discretion, determine that the horse's published past performances, whether in races or workouts, are sufficient to enable the public to make a reasonable assessment of its capabilities.

§ 11. Qualifying races.

No Standardbred may be raced unless it has a race at the chosen gait, with a charted line, within 30 days of its last race. If a Standardbred does not have a charted line within 30 days of its last race, then the horse must race in a qualifying race under the supervision of the stewards to determine its fitness for racing. The following provisions shall apply to qualifying races:

1. The licensee shall provide appropriate personnel for qualifying races to keep a charted line for each Standardbred in each qualifying race, an electronic timing device shall be in operation, and a photo-finish camera shall be in operation;

2. The licensee shall schedule as many qualifying races on as many days as is deemed appropriate for

Proposed Regulations

the horse supply, and the licensee shall maintain the racing surface in condition so that all Standardbreds have a reasonable opportunity to meet the qualifying time;

3. A Standardbred must race in a qualifying race if it has two consecutive races over a fast track which are not in the qualifying time as agreed upon by the licensee and the representative of the horsemen;

4. A Standardbred coming off the stewards' list must race in a qualifying race, and the stewards, in their discretion, may require the horse to race in one or more qualifying races to establish its fitness for racing; and

5. The stewards, in their discretion, may authorize the collecting of blood, urine or other samples of body substances from Standardbreds after competing in qualifying races.

§ 12. Official publication statistics.

For Thoroughbreds, in determining eligibility, allowances and penalties, the reports, records and statistics as published in the Daily Racing Form and its monthly charts or similar publication or corresponding official publications of any foreign country, shall be considered official, but the records and statistics may be corrected until 45 minutes prior to post time of the race. For Standardbreds, in determining eligibility, the eligibility certificate and any records the United States Trotting Association may provide shall be considered as official. For American Quarter Horses, in determining eligibility, the registration certificates and records of the American Quarter Horse Association shall be considered as official.

§ 13. Valuation of purse money.

The amount of purse money earned in foreign races is credited in United States currency on the day the purse money was earned for the purposes of determining penalties and allowances. There shall be no appeal for any loss on the exchange rate at the time of transfer from that of another country to United States currency.

§ 14. Time trials.

For Standardbreds, time trials are permitted with the permission of the licensee and the commission providing (i) the horse is subject to post-race testing, (ii) an electronic timing device is utilized, (iii) if the horse is accompanied by prompters, the prompters shall not precede the horse, and (iv) the stewards are present.

§ 15. Stewards' List.

A horse may be placed on the Stewards' List if it is unfit to race because of illness or lameness, unmanageable at the starting gate, dangerous or not competitive. Entries for horses on the Stewards' List shall be refused. The

following provisions shall apply to the Stewards' List;

1. The stewards shall consult with the commission veterinarian before removing from the list any horse originally placed on the list for illness or lameness;

2. The stewards shall consult with the starter before removing a horse placed on the list by a starter for being unmanageable at the starting gate; and

3. The trainer of a horse on the Stewards' List or on a starter's, veterinarian's or similar list in another jurisdiction shall be responsible for reporting this fact to the stewards.

§ 16. Filly or mare bred.

Any filly or mare, which has been covered by a stallion, shall be reported to the racing secretary prior to being entered in a race. The racing secretary shall prominently display in the racing office a listing of the fillies and mares that have been bred and the names of the stallions to which they have been bred. No filly or mare that has been covered by a stallion may be entered in a claiming race unless a written release from the stallion owner is attached to the certificate of foal registration, eligibility certificate or other registration document indicating the stallion service has been paid or satisfied.

§ 17. Equipment.

Equipment must be used consistently on a horse, and a trainer must obtain permission from the stewards to change the use of any equipment on a horse from its last previous start. The paddock judge shall maintain a list of the equipment worn by each horse and inform the stewards immediately of any change in its equipment. The following provisions shall apply to equipment:

1. A horse's tongue may be tied down with a clean bandage or gauze;

2. No Thoroughbred may race shod in anything other than ordinary racing plates, e.g., bar shoe, mud calks, without the permission of the stewards and the public being informed through appropriate means;

3. No Thoroughbred may race in a bridle weighing more than two pounds;

4. Use on a horse of other than an ordinary whip either in a race or workout including any goading device, chain, spurs, electrical or mechanical device, appliance or any means which could be used to alter the speed of the horse is prohibited, except spurs may be used in jump races pursuant to § 15 of VR 662-05-03;

5. For Thoroughbreds, Quarter Horses and Arabians, an ordinary whip can weigh no more than one pound, be longer than 30 inches and have only on

Proposed Regulations

popper. No stingers or projections extending through the hole of a popper or metal part on a whip shall be permitted; and

6. For Standardbreds, an ordinary whip can be no longer than four feet, eight inches, plus a snapper not longer than eight inches.

§ 18. Sex alteration.

A horse which has been gelded or spayed shall have this designated on the certificate of foal registration, eligibility certificate or other registration by the owner or his trainer or his authorized agent, and certified by the practicing veterinarian. The owner shall also inform the appropriate breed registry that the sex of the horse has been altered.

§ 19. Racing soundness examination.

All horses racing on the flat or over jumps that are entered to race must be examined by the commission veterinarian or the licensee's veterinarian prior to racing to determine the horse's fitness for racing. The trainer of each horse shall promptly identify the horse to be examined, and the examination is to take place outside of the horse's stall. The horse may be led at a walk or trot as requested by the examining veterinarian. For Standardbreds, the racing soundness examination shall consist of the commission veterinarian observing the horse during its warmups prior to racing.

§ 20. Post-mortem examination.

A horse which suffers a breakdown on the racing surface, either during training or racing hours, and dies or is euthanized or a horse that dies while stabled within the enclosure shall be subject to a post-mortem examination at the discretion of the stewards. The following provisions shall apply:

1. The written consent of a steward authorizing the removal of the remains shall be obtained;
2. The stewards may take control of the bodily remains of the deceased horse and order an appropriate post-mortem examination to be conducted to determine the cause of death; and
3. It shall be the responsibility of the licensee at all times to prevent the unauthorized removal from the enclosure of the remains of a deceased horse.

§ 21. Walkover.

If at post time for a stakes race, futurity or other special event, there is only one horse or horses representing only one wagering interest, then the stewards shall declare the race a walkover. However, the horse or horses shall start and complete the course before a winner is determined, but for wagering purposes, the

stewards shall declare the race "no contest." For a walkover in a jump race, the horse or horses shall report to the starter and gallop across the finish line, but they shall not be required to complete the course.

§ 22. Dead heat.

Purses, prizes or awards for a race in which a dead heat has occurred shall be divided equitably by determination of the stewards. For Standardbreds, where heat racing is employed and the race winner is required to win two heats, a horse finishing in a dead heat for first place shall be considered a winner.

§ 23. Carrying assigned weight.

Each horse shall be raced to the finish by the jockey or driver to give their best effort to win the race. For all horses racing on the flat or over jumps, they shall carry their assigned weight, including the jockey, from the post parade to the start and to the finish. For Standardbreds, the horse must pass the finishing point with the driver seated in the sulky and both of the driver's feet must be in the stirrups.

§ 24. Injured horse.

Each horse, which suffers an injury during a workout or during a race, shall be pulled up by the jockey or driver as soon as safety permits to the horse and others utilizing the racing surface. All measures shall be taken to stabilize the condition of the horse until the horse ambulance and a veterinarian arrive to render assistance.

Title of Regulation: VR 662-05-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: June 19, 1991 - 9:30 a.m.

(See Calendar of Events section for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation is to establish the conditions and procedures for flat racing which includes races for Thoroughbreds, American Quarter Horses and Arabians.

VR 662-05-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing.

PART I.

Proposed Regulations

GENERALLY.

§ 1.1. Definitions.

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

"Assigned weight" means the weight carried by a horse specified in the conditions of the race or by the racing secretary and printed in the daily racing program.

"Dead heat" means the finish of a race by two horses or more at the same time.

"Finish wire" means a real or imaginary line from the position of the photo-finish camera to a point immediately across and at right angles to the racing surface.

"Flat racing" means horse racing conducted over a surface without obstacles and includes racing with mounted riders for Arabians, Quarter Horses and Thoroughbreds.

"Highweight handicap" means a handicap race in which the weight assigned to the top horse is not less than 140 pounds.

"Match race" means a race between two horses.

"Official time" means the period from the time the first horse crosses the starting post until the first horse crosses under the finish wire.

"Overweight" means any weight of one pound or more over the assigned weight carried by a horse in a race.

"Place" means to finish second in a race.

"Post position" means the relative position assigned to each horse numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

"Post time" means the advertised moment scheduled for the arrival of all horses at the starting post for a race.

"Produce race" means a race to be run by the produce of horses named or described in the conditions of the race at the time of entry.

"Purse race" means a race for money or other prize to which the owners of horses entered do not contribute fee of more than \$100.

"Race" means a contest among horses for a purse, prize or other reward, run at a race meeting licensed by the commission in the presence of the stewards.

"Show" means to finish third in a race.

"Starter" means a horse that obtains a fair opportunity to start when the starter dispatches the horses.

"Starting post" means the starting point of a race.

"Underweight" means any weight less than the assigned weight carried by a horse in a race.

"Weigh in" means the presentation of a jockey to the clerk of scales for weighing after a race.

"Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

"Win" means to finish first in a race.

"Winner" means the horse whose nose reaches the finish wire first.

PART II. PADDOCK TO POST.

§ 2.1. Paddock time.

The trainer shall be responsible for the arrival in the paddock at the time prescribed by the stewards for each horse entered by the trainer.

§ 2.2. Weighing out.

A jockey shall be weighed out by the clerk of scales no later than 15 minutes before post time. The following provisions shall apply to the weighing out of jockeys:

1. His clothing, saddle, girth, pad and saddle cloth shall be included in a jockey's weight;

2. Number cloth, whip, head number, bridle, bit, reins, blinkers, safety helmet, tongue strap, tongue tie, muzzle, hood, noseband, shadow roll, bandages, boots and racing plates or shoes shall not be included in a jockey's weight;

3. When a substitute jockey is required, he shall be weighed out promptly, and the name of the substitute jockey and weight announced to the public;

4. No jockey may carry overweight in excess of two pounds, without the permission of the owner or trainer;

5. If the overweight is more than one pound but less than five pounds, the jockey shall declare the amount of the overweight to the clerk of scales no later than 45 minutes before post time;

6. All overweights must be announced to the public;

7. A substitute jockey must be named, if the overweight exceeds five pounds;

8. If an underweight is discovered after wagering has commenced but before the start, the horse shall be returned to the paddock and the weight corrected;

9. A jockey shall not be weighed out unless the prescribed fee has been deposited with the horsemen's bookkeeper; and

10. Failure to have the prescribed fee on deposit with the horsemen's bookkeeper may be cause for the stewards to excuse the horse from racing.

§ 2.3. Prohibitions.

No person other than the horse's owner, trainer, employees of the owner or trainer, paddock judge, horse identifier, assigned valet, steward, farrier or outrider shall touch a horse while in the paddock. The material used as a tongue tie shall be supplied by the horse's trainer, who shall affix the tongue tie in the paddock.

§ 2.4. Saddling horses.

The trainer shall be responsible for the saddling of the horse, and in his absence, he must assign an assistant or substitute trainer to saddle each horse entered by him. All horses must be saddled in the paddock unless permission to saddle a horse elsewhere has been granted by the stewards.

§ 2.5. Changing equipment.

Permission must be obtained from the stewards for the following changes of a horse's equipment from that which the horse used in its last previous start:

1. To add blinkers to a horse's equipment or to discontinue the use of blinkers;
2. To use or discontinue use of a bar plate;
3. To use or discontinue the use of a tongue tie;
4. To race a horse without shoes or with a type of shoes not generally used for racing; and
5. To race a horse without the jockey carrying a whip.

The stewards shall cause an appropriate public announcement or a display to be made in the paddock or elsewhere at the discretion of the stewards for the aforementioned changes of equipment.

§ 2.6. First-time starters.

Whips or blinkers may be used on two-year-old horses and other first-time starters, if the horses are schooled from the starting gate under the supervision of the starter, and approved by the starter and the stewards before the time of entry.

§ 2.7. Identifying equipment.

Each horse shall carry a conspicuous saddlecloth number and each jockey shall wear a number on his right arm, both of which correspond to the number of the horse as listed in the daily racing program. In the case of a coupled entry, each horse making up the coupled entry shall carry the same number with a distinguishing letter.

§ 2.8. Inspecting equipment.

The paddock judge may, in his discretion, require that bandages on a horse's legs be removed or replaced.

§ 2.9. Post parade.

All horses shall parade past the stewards' stand and carry their assigned weight from the paddock to the starting post, unless excused by the stewards from the post parade. The following provisions shall apply to post parades:

1. The stewards, in their discretion, may excuse a horse from the post parade;
2. Any horse excused from the post parade shall be led by an employee of the owner or trainer and shall carry its assigned weight from the paddock to the starting post;
3. After passing the stewards' stand during the post parade, the horses may leave the parade to walk, canter or otherwise warm up on their way to the starting post;
4. The post parade shall not exceed 12 minutes from the time the field enters the racing surface until reaching the starting post, except for unavoidable delays;
5. If a jockey is thrown from a horse during the post parade, he shall remount the horse at the point where he was thrown from the horse;
6. If a jockey is injured during the post parade or a substitute jockey is needed, then the horse shall be returned to the paddock where the horse shall be mounted by the substitute jockey;
7. If a horse leaves the racing surface during the post parade, the horse shall be returned to the racing surface at the nearest practical point to where it left the course and then complete the post parade; and
8. No person shall willfully delay the arrival of a horse at the starting post.

§ 2.10. Lead pony and rider.

A horse may be led to the starting post by a lead pony and rider, but the horse and lead pony shall pass the

Proposed Regulations

steward's stand during the post parade en route to the starting post. Lead ponies and riders may be excluded from the paddock at the discretion of the stewards.

§ 2.11. Outrider.

Outriders shall accompany the horses during the post parade and be positioned to render assistance to a jockey riding an unruly horse or catch a loose horse from the time the horses enter the racing surface until reaching the starting post. The outrider shall not help a jockey riding an unruly horse unless the jockey requests the assistance of an outrider. After the start of the race, the outriders shall position themselves to help jockeys in pulling up horses, catch any loose horses or render assistance to any injured horses.

§ 2.12. Post time.

Post time shall be prominently displayed on the infield results board. The starter shall endeavor to get the horses and jockeys at the starting post at post time so as to avoid any delay in effecting the start of the race.

PART III. STARTING A RACE.

§ 3.1. Starter.

The horses and jockeys, lead ponies and riders, and outriders shall be under the supervision of the starter from the time the horses enter the racing surface until the race is started. While the horses, jockeys, lead ponies and pony riders are under his supervision, the starter shall:

1. Grant a delay to allow for the substitution of an injured jockey or for the repairing of broken equipment;
2. Load the horses into the starting gate in the order of their post position;
3. Report to the stewards any delay in the start; and
4. Recall the horses from a false start where a starting gate is not used.

However, the starter, in his discretion, may:

1. Allow other jockeys to dismount during any delay;
2. Unload the horses from the starting gate, if there is a lengthy delay in the start of a race; and
3. Load a fractious horse out of post position order.

§ 3.2. Unmanageable horse.

If a horse is unmanageable at the starting post, the starter may recommend to the stewards that the horse be

excused. If the stewards excuse a horse from a race because it is unmanageable, they shall:

1. Order all money wagered on the unmanageable horse deducted from the pari-mutuel pool and order a prompt refund; and
2. Place the unmanageable horse on the stewards' list.

§ 3.3. Starting gate.

Each licensee shall maintain at least two operable starting gates as required by § 2.18 of VR 662-01-02, Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

§ 3.4. Fair start.

If a door on the starting gate fails to open, a horse is inadvertently loaded into an incorrect post position, or otherwise fails to obtain a fair start, then the starter shall immediately report the circumstances to the stewards. In these circumstances, the stewards shall:

1. Post the "inquiry" sign on the infield results board;
2. Advise the public through the public address system and any other appropriate means to hold all mutuel tickets; and
3. Make a determination of whether the horse obtained a fair start after consulting with the starter, other appropriate persons and reviewing the video tape recordings of the race.

§ 3.5. Nonstarter.

If the stewards determine that the horse did not receive a fair start, then they shall declare the horse a nonstarter and follow the provisions of subsections B, C and D of § 3.9, VR 662-01-02 Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering. If the horse is declared a nonstarter in a stakes race, futurity or other special event, then any entrance or starting fees shall be refunded.

§ 3.6. Assistance prohibited.

Only the jockey may strike a horse at the start of a race. Only the jockey shall be permitted to shout or otherwise assist in breaking the horse away from the starting gate. During the running of a race, no assistance may be rendered by others.

PART IV. POST TO FINISH.

§ 4.1. Leading horse.

A leading horse when clear of all other horses in the race is entitled to any part of the racing surface, but n

horse shall cross or weave in front of other horses in any way to impede them, cause interference or constitute intimidation.

§ 4.2. Interference.

During a race, no jockey shall willfully strike, strike at or touch another jockey or another jockey's horse or equipment, or jostle another horse to interfere with that jockey or horse.

§ 4.3. Third party interference.

If a horse or jockey interferes with or jostles another horse, the aggressor may be disqualified, unless the interfered or jostled horse or jockey was partly at fault or the interference was wholly caused by the fault of some other horse or jockey.

§ 4.4. Control of horse.

A jockey shall be responsible for making his best effort to control and guide his mount during the running of the race so that it does not jostle, impede, interfere or intimidate another horse or jockey.

§ 4.5. Off course.

If a horse runs on the wrong side of a post, fence, beacon or flag, it shall be considered off course and the jockey must turn back, return to the point where the horse went off course and complete the proper course or be disqualified.

§ 4.6. Ridden out.

All horses shall be ridden to win or finish as near as possible to the first-place horse and show the best and fastest performance of which it is capable in the running of the race.

§ 4.7. Easing.

A jockey shall not restrain a horse without adequate cause, even if it has no apparent chance to earn a portion of the purse money. A jockey shall not unnecessarily cause a horse to shorten its stride.

§ 4.8. Instructions.

All horses and jockeys are expected to give their best efforts during the race, and any instructions or advice to jockeys to ride or handle their mounts otherwise than to win, is forbidden.

§ 4.9. Reversal of form.

The stewards shall consider marked reversals of form and conduct inquiries of owners, trainers, jockeys and any other holders of permits that they deem appropriate to determine whether the horse was deliberately restrained

or impeded in any way from winning or finishing as near as possible to the first-place horse.

§ 4.10. Use of whip.

Whips are to be used uniformly and the stewards shall conduct inquiries into excessive or non-use of a whip, or the dropping of a whip during the running of a race.

§ 4.11. Prohibited equipment.

No device other than the ordinary whip, shall be used to affect the speed of the horse during a race. No sponge or other object may be used to interfere with the respiratory system of a horse.

§ 4.12. Weighing in.

After a race has been run, a jockey shall pull up his horse, ride promptly to the clerk of scales, dismount after obtaining the permission of the stewards, and be weighed in by the clerk of scales. The following provisions shall apply to the weighing in of jockeys:

1. The winning horse may be accompanied by an outrider after the horse has been pulled up and is returned to the clerk of scales;

2. If a jockey is prevented from returning to the clerk of scales because of an accident or injury to either horse or rider, the jockey may be conveyed to the winners' circle by other means or excused by the stewards from weighing in;

3. A jockey must, upon returning to the clerk of scales, unsaddle the horse he has ridden and no other person shall touch the horse except by its bridle;

4. No person shall help a jockey in removing from the horse the equipment that is to be included in the jockey's weight;

5. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed all the equipment that is to be included in his weight;

6. A jockey shall carry over to the scales all pieces of equipment carried when weighing out, but after weighing in, the equipment may be handed to a valet;

7. A jockey shall generally weigh out and weigh in at the same weight, and the stewards shall be informed of any underweight or overweight carried by the jockey;

8. If a jockey weighs in two or more pounds less than the weight at which he weighed out, the horse shall be disqualified; and

9. A jockey shall not weigh in at more than two

Proposed Regulations

pounds over the weight at which he weighed out, unless affected by weather or track conditions, and the stewards shall be notified immediately by the clerk of scales.

* * * * *

Title of Regulation: VR 662-05-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: June 19, 1991 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation establishes the conditions and procedures under which jump racing will be conducted.

VR 662-05-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing.

§ 1. Definitions.

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

"Field" means the spaces between the fences, the space between the starting point and the first fence, and the space between the last fence and the finish.

"Jump racing" means horse racing conducted over a surface including obstacles.

§ 2. Generally.

The provisions of VR 662-05-01 Conduct of Flat Racing shall apply equally to the conduct of jump racing, except where regulation VR 662-05-03 specifies otherwise.

§ 3. Overweights.

If the overweight is more than 10 pounds, the jockey shall declare the amount of the overweight to the clerk of scales no later than 45 minutes before post time. If the overweight exceeds 10 pounds, a substitute jockey must be named, except that an amateur jockey may carry more than 10 pounds of overweight.

§ 4. Weighing out.

If a horse is equipped with a martingale, breast-plate or

yoke, then this equipment must be put on the scale and included in the jockeys' weight.

§ 5. Tongue ties.

The material used as a tongue tie shall be supplied by the horse's trainer, who shall affix the tongue tie in the paddock, except by the permission of the stewards, the tongue tie may be affixed in the horse's stall prior to going to the paddock.

§ 6. Identifying equipment.

Each horse shall carry a conspicuous saddlecloth number which corresponds to the number of the horse as listed in the daily racing program. In the case of a coupled entry, each horse making up the coupled entry shall carry the same number with a distinguishing letter.

§ 7. Post parade.

No horse shall be jumped over an obstacle on the way to the starting gate.

§ 8. Starting.

Horses may be started either by a starting gate, barrier or a flag.

§ 9. Assistance at the start.

A trainer or assistant trainer, with the permission of the stewards, may "get behind" a horse at the start for the purpose of encouraging it to break.

§ 10. Remounting after fall.

Any horse losing its rider may be remounted by its jockey in any part of the same field or enclosure in which the mishap occurred. If the loose horse leaves the field, then it must be returned to the field where the mishap occurred before resuming the course.

§ 11. Weighing in.

If a jockey weighs in at less than the weight at which he weighed out, the horse shall be disqualified unless the stewards are satisfied that such shortness of weight was caused by exceptional circumstances.

§ 12. Fences.

Any course and obstacles over which jump races are to be conducted must conform to the standards established by the National Steeplechase and Hunt Association. The following shall be a general guideline, when conditions permit:

- 1. There shall be at least five fences in every mile;*
- 2. Wings shall be a minimum of 20 feet long and a*

minimum of 6 feet at their highest point; and

3. Beacons shall be a minimum of 4 feet in height.

§ 13. NSHA licenses.

A trainer shall not be permitted to train horses for jump races unless he possesses the appropriate permit from the commission and a trainer's license from the National Steeplechase and Hunt Association. A jockey shall not be permitted to ride horses in jump races unless possessing the appropriate permit from the commission and a jockey's license from the National Steeplechase and Hunt Association.

§ 14. Minimum age.

No horse shall be entered or shall start in a jump race unless it is at least three years old.

§ 15. Use of spurs.

Spurs may be used in jump races, provided that they are of a type that will prod but not cut. All spurs must be approved by the stewards.

Title of Regulation: VR 662-05-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: June 19, 1991 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation is to establish the conditions and procedures that shall apply particularly for Quarter Horse racing.

VR 662-05-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing.

§ 1. Generally.

The provisions of VR 662-05-01 Conduct of Flat Racing shall apply equally to the conduct of quarter horse racing, except where regulation VR 662-05-04 specifies otherwise.

§ 2. Starting.

The starting gate shall be located at the starting post so that a race is actually run at the designated distance.

§ 3. Timing.

The timing of a race shall commence when the first horse breaks the electronic beam at the starting post and when the winner breaks the electronic beam at the wire.

§ 4. Distance.

Distance in a race for quarter horses shall be reckoned in yards instead of furlongs or miles.

§ 5. Time.

Time in a race for quarter horses shall be reckoned in at least hundredths of a second and a time shall be given for each horse finishing a race.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

BOARD FOR BARBERS

Title of Regulation: VR 170-01-1. Board for Barbers Regulations. **REPEALED.**

Title of Regulation: VR 170-01-1:1. Board for Barbers Regulations.

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

Effective Date: June 20, 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 7:7 VA.R. 1047-1055 December 31, 1990.

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 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. 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 230-30-002. Community Diversion Program Standards.

Statutory Authority: §§ 53.1-5 and 53.1-182 of the Code of Virginia.

Effective Date: July 1, 1991.

Summary:

These standards establish the evaluation criteria for the administration and supervision of community corrections programs statewide.

The substance of these regulations do not differ from the previous regulations. The only change that has been made is the definition of "Local Offender" and "State Offender" to meet the requirements of the Code.

VR 230-30-002. Community Diversion Program Standards.

PART I. INTRODUCTION.

Article 1. Definitions.

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

"*Behavioral contract*" means a written agreement between the offender and the program containing at a minimum:

1. A provision that the offender shall not change residence without prior notification to the case manager;
2. The number of community service hours to be completed;
3. A provision for restitution, if applicable;
4. Behavioral or treatment goals, or both;
5. A provision for intensive supervision;
6. A statement that the offender shall remain in the program until released by the court; and
7. A signed statement by the offender, witnessed by program staff, agreeing to abide by the contract.

"*Case file*" means the information that shall be maintained in a central location on each offender, and which shall contain, at a minimum:

1. Pre- or Post-Sentence report (PSI) for a felon offender, if available.
2. All diagnostic evaluation information purchased by or made available to the program.
3. Document of referral signed by the judge or clerk of court. This may not be applicable for misdemeanants.
4. Document of Diversion signed by the judge or clerk of court.
5. Behavioral contract.
6. Community Service Agreement.

7. Offender's current address, phone number (if available), date of birth, and social security number.
8. Offender contract summaries.
9. Documentation of services provided.
10. Documentation of termination.

"Case manager" means the person designated by the program director to perform intensive supervision of offenders, or to monitor offenders' compliance with the terms of behavioral contracts.

"Community Service Agreement" means a written agreement between the offender and the program staff, containing at a minimum:

1. Work site agency
2. Work site supervisor
3. Work site location
4. Job duties
5. Service hours required
6. Time frame for completion

"Eligibility criteria" means the minimum requirements which shall be met by an offender for the Community Corrections Resources Board to evaluate for diversion, to recommend diversion to the referring court, and for the offender to participate in a local community diversion program. The criteria shall contain, at a minimum:

1. Each offender shall have received a sentence to be incarcerated in a state or local adult correctional institution.
2. Each offender shall be nonviolent as determined by the Community Corrections Resources Board. The Community Corrections Resources Board shall define "nonviolent."
3. No offender shall have a demonstrated pattern of violence as determined by the Community Corrections Resources Board.
4. No offender shall have any outstanding criminal charges, detainers, or dispositions which would preclude eventual program participation.
5. Each offender shall be deemed suitable for program participation by the Community Corrections Resources Board's determination that an appropriate, rational behavioral contract can be developed.

"Intensive supervision for local offenders" means at least two face-to-face contacts each 30 days after the

program staff is made aware of the diversion. These contacts shall be with the program director or the person he has designated in writing to monitor compliance with the terms of the behavioral contract. At least one of these contacts shall be made by appropriate program staff. The initial contact shall be made by appropriate program staff within seven days after the program staff is made aware of the diversion. Within 30 days after the program staff is made aware of the diversion, one of the contacts shall be made at the offender's home by appropriate program staff. Subsequent face-to-face home contacts shall be made within every 90-day period until termination; the offender's place of residence shall be verified monthly by program staff. Home contacts are not required for an offender living out-of-state, but verification of the offender's place of residence shall be documented monthly by program staff.

"Intensive supervision for state offenders" means at least one weekly, face-to-face contact with appropriate program staff to monitor compliance with the terms of the behavioral contract. The first weekly contact shall be made within seven days after the program staff is made aware of the diversion. During each calendar month, one of these contacts shall be made at the offender's home by appropriate program staff. The first home contact shall be made within 30 days after the program staff is made aware of the diversion.

"Local offender" means an individual who has been sentenced to a term which would result in incarceration in a local adult correctional institution [and who is not eligible for parole].

"Program" means the plan or system of diversion services of a unit of government or of a public or private agency as outlined in §§ 53.1-180 through 53.1-185 of the Code of Virginia.

"Program contract" means the Community Corrections Contract between the Department of Corrections and the program that sets forth the terms and conditions for funding and program operation.

"Program staff" means any program administrator, program director, case manager, or clerical worker who is employed by, contracts with, or volunteers services to the program.

"State offender" means an individual who has been sentenced to a term which would result in incarceration in a state adult correctional institution or a term which would result in the offender being eligible for parole .

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the legal base for the development of Community Diversion Program Standards. Section 53.1-182 of the Code of Virginia directs the State Board of Corrections to prescribe standards for the

Final Regulations

development, operation, and evaluation of programs and services authorized by the Community Diversion Incentive Act (§ 53.1-180 et seq.).

Article 3. Administration.

§ 1.3. The Community Diversion Program Standards, adopted by the Board of Corrections in February, 1984, on May 7, 1989, are superseded on the effective date of these standards July 1, 1991.

§ 1.4. The primary responsibility for application of these standards shall be with the program administrator.

PART II. PROGRAM ADMINISTRATION AND MANAGEMENT.

Article 1. Community Corrections Resources Board.

§ 2.1. Each program shall have a Community Corrections Resources Board whose composition and duties shall be in compliance with the Community Diversion Incentive Act.

§ 2.2. Each Community Corrections Resources Board shall adopt bylaws for the conduct of business in compliance with the Freedom of Information Act, §§ 2.1-340 through 2.1-346.1 of the Code of Virginia.

Article 2. Administrative Responsibility.

§ 2.3. Each program shall have a program administrator who is an administrative officer of a unit of government or of a public or private agency and who is responsible for applying for Community Diversion Incentive Act funds, receiving these funds, administering these funds, and ensuring full implementation of the program contract.

§ 2.4. Each program shall also have a program director who is responsible for the overall daily administration of the program.

§ 2.5. The program's lines of authority, including an organizational chart and written roles and responsibilities of the program staff and the Community Corrections Resources Board, shall be documented.

§ 2.6. The program director shall provide Community Corrections Resources Board members and program staff with orientation as to their respective duties and responsibilities within 30 days of appointment or employment.

§ 2.7. The Community Corrections Resources Board of each program utilizing volunteers or unpaid staff shall develop and implement written policies and procedures for the recruitment, selection, training, supervision and termination of those volunteers or unpaid staff.

§ 2.8. There shall be a written agreement between the program director and each volunteer or unpaid staff member that outlines the roles and responsibilities of the volunteer or unpaid staff member.

§ 2.9. The program director and all full-time program staff, excluding clerical staff, employed by the program shall complete a minimum of 40 hours of Department of Corrections approved training annually. Part-time program staff and clerical staff shall complete a minimum of 20 hours of Department of Corrections approved training annually.

§ 2.10. All program staff shall be bonded.

§ 2.11. The program shall submit financial, offender, and program activity reports and data as required by the Department of Corrections.

Article 3. Policy and Procedure Manual.

§ 2.12. The Community Corrections Resources Board shall develop a written policy and procedure manual for program administration and operation.

§ 2.13. The policy and procedure manual shall be provided to each chief judge of the judicial circuits and districts the program serves.

PART III. FISCAL MANAGEMENT.

Article 1. Responsibility.

§ 3.1. The Community Corrections Resources Board shall develop and implement written policies and procedures to approve and monitor program finances.

Article 2. Maintenance of Financial Records.

§ 3.2. Audited financial records shall be maintained by the program director for at least three years. Unaudited financial records and completed audits shall be retained for the duration of the program and shall be made available to the Department of Corrections upon request.

Article 3. Operation Within a Budget.

§ 3.3. Each program shall operate within a Department of Corrections approved budget.

PART IV. OFFENDER PARTICIPATION IN PROGRAM.

Article 1. Eligibility.

§ 4.1. The Community Corrections Resources Board shall establish written offender eligibility criteria which include, at a minimum, the Board of Corrections' Eligibility Criteria (see § 1.1). These offender eligibility criteria shall be approved by the Department of Corrections.

§ 4.2. The Community Corrections Resources Board shall develop and implement written policies and procedures for offender referral.

§ 4.3. The Community Corrections Resources Board shall develop and implement written policies and procedures for providing the judge of the referring court the recommendations of the board on offenders.

Article 2. Evaluation.

§ 4.4. The Community Corrections Resources Board shall develop and implement written policies and procedures for offender evaluation.

Article 3. Diversion.

§ 4.5. The Community Corrections Resources Board shall develop and implement written policies and procedures for offender diversion.

§ 4.6. The Community Corrections Resources Board shall develop and implement written policies and procedures for the development of an appropriate, rational behavioral contract for each offender participating in the program.

Article 4. Termination.

§ 4.7. The Community Corrections Resources Board shall develop and implement written policies and procedures for offender termination.

§ 4.8. The offender's termination shall be determined by the sentencing court.

PART V. CASE FILES.

Article 1. Case File Maintenance.

§ 5.1. The program director shall maintain individual offender case files.

§ 5.2. Offender case files shall be secured to protect against loss, theft, or unauthorized use.

Article 2. Confidentiality of Offender Information.

§ 5.3. The Community Corrections Resources Board shall develop and implement written policies and procedures to

govern the confidentiality, dissemination, and maintenance of offender information. These shall be in compliance with all applicable state and federal laws, including the Freedom of Information Act (§§ 2.1-340 through 2.1-346.1 of the Code of Virginia), the Privacy Protection Act (§§ 2.1-377 through 2.1-386 of the Code of Virginia), the Virginia Public Records Act (§§ 42.1-76 through 42.1-91, of the Code of Virginia, and § 19.2-389 of the Code of Virginia (Dissemination of Criminal History Record Information).

PART VI. OFFENDER MANAGEMENT.

Article 1. Intensive Supervision.

§ 6.1. Intensive supervision shall be required for each diverted offender and documented in the case file.

§ 6.2. In lieu of a transfer, intensive supervision may be temporarily provided by another program's appropriate program staff if it is mutually agreed upon and the supervision is documented in the diverting program's case file.

§ 6.3. Placement of an offender in a residential treatment facility shall not satisfy the intensive supervision requirements while the offender is in residence at the facility. The residential treatment facility shall provide written monthly progress reports and a termination summary on the offender to the program.

§ 6.4. Intensive supervision requirements for an offender may be interrupted by the program director for a period not to exceed 15 days, under the following circumstances:

1. Inclement weather prevents supervision.
2. Court action has been requested for successful termination.
3. Excused absences for employment, training, vacation, military duty, medical emergencies, or family emergencies of the offender.
4. Offender incarcerated.

When intensive supervision is temporarily interrupted, such fact and circumstances shall be documented in the case file. Restoration of intensive supervision shall also be documented.

§ 6.5. Intensive supervision requirements for an offender may be interrupted by the Department of Corrections under extraordinary circumstances for a period not to exceed 90 days. When the Department of Corrections interrupts the supervision requirements, such fact, circumstances, and documentation shall be included in the case file. Restoration of intensive supervision shall also be documented.

Final Regulations

Article 2. Offender Monitoring.

§ 6.6. The Community Corrections Resources Board shall develop and implement written policies and procedures for the monitoring of an offender's compliance with the terms of the behavioral contract.

§ 6.7. The Community Corrections Resources Board shall develop and implement written policies and procedures for major and minor behavioral contract violations as defined by the Community Corrections Resources Board.

Article 3. Transfer of Cases.

§ 6.8. The Community Corrections Resources Board shall develop and implement written policies and procedures to allow for the transfer of offenders to and from other programs.

§ 6.9. The referring program director or Community Corrections Resources Board, or both, shall approve or deny the proposed transfer of an offender to another program and shall, along with the sentencing court, retain jurisdiction over the offender.

§ 6.10. Prior to the transfer, the referring program director shall provide written notification to the chief probation and parole officer in the referring and receiving districts of the transfer of an offender under consecutive or concurrent probation supervision.

§ 6.11. The receiving program director or the Community Corrections Resources Board, or both, shall approve the proposed transfer of an offender from a referring program, provided the offender meets the receiving program's eligibility criteria.

§ 6.12. The referring program director shall be responsible for all treatment and supervision costs of an offender who is transferred to another program.

§ 6.13. The referring program director shall document that intensive supervision is being provided to an offender who may be transferred until the transfer process is completed.

§ 6.14. The receiving program director shall provide intensive supervision and monitor compliance with the terms of the referring program's behavioral contract of the transferred offender, and shall provide written monthly progress reports documenting such supervision and monitoring to the referring program director.

§ 6.15. The referring program director shall document that the receiving program director is providing intensive supervision and is monitoring the transferred offender's compliance with the terms of the behavioral contract.

§ 6.16. The referring program director shall maintain a case file on an offender transferred to another program.

§ 6.17. The receiving program director may return the transferred offender to the referring program director for noncompliance or a change in offender circumstances, provided the receiving program director documents such noncompliance or change in circumstances and communicates such information to the referring program director with at least 10 days notice prior to the return.

§ 6.18. The receiving program director shall notify the referring program director of the completion of the transferred offender's behavioral contract, with the request that the referring program director recommend termination by the diverting court.

§ 6.19. The referring program director shall notify the diverting court of the successful or unsuccessful completion of a transferred offender and, after termination by the diverting court, shall close the offender's case according to local procedures.

§ 6.20. The receiving program director shall continue to provide intensive supervision until the offender's case is terminated by the diverting court or the offender is returned to the referring program.

§ 6.21. The receiving program shall maintain a case file on each offender transferred to the program.

Article 4. Restitution.

§ 6.22. The Community Corrections Resources Board shall develop and implement written policies and procedures for victim restitution.

Article 5. Community Service.

§ 6.23. Community service shall be required of each offender participating in the program.

§ 6.24. The Community Corrections Resources Board shall develop and implement written policies and procedures for community service. Such service shall be unpaid and performed at public or private nonprofit agencies.

§ 6.25. The Community Corrections Resources Board shall develop and implement written policies and procedures to ensure equitable and consistent assignment of community service hours.

§ 6.26. The Community Corrections Resources Board shall establish a standard range of community service hours.

§ 6.27. Documented on-site supervision of each offender performing community service shall be provided by a work site supervisor. Work site supervision shall be at no cost to the program.

PART VII. OFFENDER SERVICES.

Article 1. Establishment of Services and Service Providers.

§ 7.1. The Community Corrections Resources Board shall develop and implement written policies and procedures to establish services for offenders based on an assessment of the offenders' needs and community resources.

§ 7.2. The Community Corrections Resources Board shall develop and implement written policies and procedures to recruit, screen, and select service providers.

Article 2. Purchases of Services.

§ 7.3. The Community Corrections Resources Board shall develop and implement written policies and procedures to monitor the purchase of offender services.

§ 7.4. The program director may only purchase services on behalf of the offender; no direct financial allowances are to be made to an offender.

§ 7.5. Routine offender services, including evaluations, shall be purchased through written formal contracts or agreements with service providers.

§ 7.6. Offender service funds may be used for the purchase of emergency services for food, clothing, housing, medical services and transportation. Food or housing services shall continue for no longer than 31 days. Emergency services shall not be a regular stipend or support for the offender.

Article 3. Residential Services.

§ 7.7. The program director shall document that the facilities in which offenders are placed for residential treatment are in compliance with applicable state and local health and fire regulations.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

NOTICE: Due to its length, VR 425-01-75, Boiler and Pressure Vessel Rules and Regulations filed by the Department of Labor and Industry are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary, in lieu of full text, explaining the amendments is being published. The full text of the regulation is available for public inspection at the Office of the Registrar of Regulations and the Department of Labor and Industry.

Title of Regulation: VR 425-01-75. Boiler and Pressure

Vessel Rules and Regulations.

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Effective Date: July 1, 1991.

Summary:

The 1990 session of the Virginia General Assembly enacted legislation that makes four minor changes to the Boiler and Pressure Vessel Safety Act. These changes will (i) correct grammatical language; (ii) delete the requirement that certificates be posted under glass; (iii) delete an exempting criteria of 120 gallons in accordance with the ASME code and changes the criteria for exemption to 300 psi (pounds per square inch) or 210° Fahrenheit; and (iv) transfer the authority for approving a variance from the Safety and Health Codes Board to the commissioner.

Four types of changes to the standard were made due to the regulatory review process of the department in the form of (i) order - terms are placed in alphabetical order so that they can be easily located; (ii) grammar - correct grammatical language replaces incorrect and unnecessary language is deleted; (iii) format - subsections are renumbered and lower case lettering is replaced with upper case lettering; (iv) consistency - words and numbers are rewritten so that they are the same throughout the standard.

These amendments also address enacted legislation from previous General Assembly sessions that include one major change to the standard in the form of fee updates, and minor changes to the standard such as replacing the term "commission" with "board" in Part I, Definitions of Terms.

Other amendments include changes to comply with ASME Code and National Board Inspection Code revisions.

Several changes for grammatical clean-up and correction of errors were made since the draft was approved by the board. Based on public comment received and further analysis by staff the following substantive changes were also made:

1. Deletion of the proposed requirements for the National Board of Boiler and Pressure Vessel Inspectors Inspection Code "R" Stamp for organizations performing repairs and alterations to boilers and pressure vessels, the "VR" stamp for repair of code safety valves, and the "NR" stamp for repair of nuclear components.

2. Expansion of the definition of "approved" to include the commissioner and chief inspector.

3. Addition or revision of several definitions to conform to preexisting statutory requirements.

Final Regulations

4. Clarification of requirements for owner/user inspection agencies for pressure vessels.

5. Clarification of what constitutes an authorized insurance company.

* * * * *

Safety and Health Codes Board

NOTICE: The following regulations (VR 425-02-71 and VR 425-02-79) filed by the Department of Labor and Industry are excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Labor and Industry will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revisions.

Title of Regulation: VR 425-02-71. Virginia Occupational Safety and Health Standards for General Industry - The Control of Hazardous Energy (Lockout/Tagout) (1910.147).

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

Effective Date: July 1, 1991.

Summary:

This action readopts the federal OSHA standard addressing lockout and tagout practices and procedures that are necessary to disable machinery or equipment and to prevent the release of hazardous potential energy while maintenance and servicing activities are being performed. As before, the standard requires employers to have a documented energy control procedure, train employees initially and provide yearly updates, and conduct periodic inspections.

Within the requirements of the regulation, as modified by the technical corrections, the optional use of a tagout program will again be permitted when the employer can demonstrate that the tagout program would provide equivalent protection to a lockout program.

This standard applies to general industry employment covered under VOSH § 1910, but does not cover maritime, agriculture or construction employment.

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

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Standard for the Control of Hazardous Energy (Lockout/Tagout) (1910.147) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-71. Virginia Occupational Safety and Health Standards for General Industry - The Control of Hazardous Energy (Lockout/Tagout) (1910.147).

When the regulations as set forth in the General Industry Standard for Control of Hazardous Energy Sources (Lockout/Tagout) and the technical corrections thereto, are applied to the Commissioner of the Department of Labor and Industry or to the Virginia employers, the federal terms "29 CFR" shall be considered to read as "VOSH Standard."

On April 16, 1991, the Virginia Safety and Health Codes Board amended the General Industry Standard for the Control of Hazardous Energy Sources (Lockout/Tagout), § 1910.147. The purpose of this amendment is two-fold. The action to readopt the standard identical to that which was promulgated by federal OSHA, as published in the Federal Register, Vol. 54, No. 169, pp. 36687-36696, Friday, September 1, 1989, resolves the conflict between the requirement of Chapter 707 of the 1991 Acts of Assembly and the existing Virginia specific standard which prohibited the optional use of tagout in certain circumstances to control hazardous energy sources.

This action was taken in conjunction with the adoption of an identical version of federal OSHA's amendment to the General Industry Standard for the Control of Hazardous Energy Sources (Lockout/Tagout), § 1910.147, as published in the Federal Register, Vol. 55, No. 183, pp. 38677-38687, dated September 20, 1990, which consists of corrections and technical amendments necessary to eliminate errors of inconsistencies in the preamble and the regulatory text of the final rule. The amendments as adopted are not set out.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 6, 1991

Mr. Thomas A. Bryant, Secretary
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23219

Re: VR 425-02-71 - Control of Hazardous Energy Sources
(Lockout/Tagout)
VR 425-02-79 - Safety Standards for Stairways and Ladders
Used in the Construction Industry

ATTENTION: Mr. John Crisanti, Director
Office of Enforcement Policy

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

* * * * *

Safety and Health Codes Board

Title of Regulation: VR 425-02-79. Virginia Occupational Safety and Health Standards for the Construction Industry - Safety Standards for Stairways and Ladders Used in the Construction Industry (1926.1050 through 1926.1060).

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

Effective Date: July 1, 1991.

Summary:

"The revisions to 29 CFR 1926.1050 through 1926.1060, subpart X - Stairways and Ladder, focus on the reduction of accidents or injuries by means of work practices and procedures, proper use and handling of equipment, and training, as well as on changes in language, definition, and format of the standard." (55 Fed. Reg. 47686)

The new standard revises and relocates the existing provisions for stairways and ladders from existing subpart L--Ladders and Scaffolds and subpart M--Floors and Wall Openings, and Stairways, into subpart X. This final rule reformats the rules into a more logical grouping of topics to facilitate employers in finding the sections appropriate to their concerns. This revision also focuses on the principal hazards involved when working on stairways and ladders and eliminates what OSHA believes to be unnecessary and redundant provisions in the existing standards. The provisions of existing subpart X--Effective Dates--are deleted as they are no longer necessary. It is being replaced with this new subpart X. (55 Fed. Reg. 47660, 47684, 47661)

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Safety Standards for Stairways and Ladders Used in the Construction Industry (1926.1050 through 1926.1060) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-79. Virginia Occupational Safety and Health Standards for the Construction Industry - Safety Standards for Stairways and Ladders Used in the Construction Industry (1926.1050 through 1926.1060).

When the regulations as set forth in the Safety Standards for Stairways and Ladders Used in the Construction Industry are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the federal term "29 CFR" shall be considered

to read as "VOSH Standard."

On April 16, 1991, the Virginia Safety and Health Codes Board adopted the federal OSHA regulation concerning the Safety Standards for Stairways and Ladders Used in the Construction Industry, 29 CFR 1926.1050 through 1926.1060, as published in the Federal Register, Vol. 55, No. 220, pp. 47660-47691, Thursday, October 8, 1990, including corrections as published in Vol. 56, No. 15, p. 2585, Wednesday, January 23, 1991, and Vol. 56, No. 26, p. 5061, Thursday, February 7, 1991. The amendments as adopted are not set out.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 6, 1991

Mr. Thomas A. Bryant, Secretary
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23219

Re: VR 425-02-71 - Control of Hazardous Energy Sources
(Lockout/Tagout)
VR 425-02-79 - Safety Standards for Stairways and Ladders
Used in the Construction Industry

ATTENTION: Mr. John Crisanti, Director
Office of Enforcement Policy

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Obstetric and Pediatric Maximum Payments. VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

VR 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Maximum Payments.

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

Effective Date: July 1, 1991.

Summary:

The purpose of this action is to promulgate permanent regulations regarding specific obstetric and pediatric maximum payment amounts to supersede the temporary emergency regulation adopted by DMAS which became effective July 1, 1990.

Attachment 4.19 B of the Plan contains reimbursement methodologies for all covered services except for inpatient hospital and long-term care, which are covered in other Plan attachments. This amendment would add a new supplement 1 to Attachment 4.19 B, providing obstetric and pediatric payment rates, in conformance with the OBRA 89 requirement.

The payment rates listed in this amendment are the same as those listed in the emergency regulations which this regulation will supersede, and were approved by the Health Care Financing Administration on December 10, 1990. The only changes (the addition of several procedure codes) in this regulation over the current emergency regulation were required by HCFA during the State Plan amendment approval process.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

[The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the Plan at least to the extent these are available to the general population.

b. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

c. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed: such data will be made available to the Secretary, HHS, upon request.

d. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

The services that are cost reimbursed are:

(1) Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals

(2) Home health care services

(3) Outpatient hospital services excluding laboratory

(4) Rural health clinic services provided by rural health clinics or other federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.

(5) Rehabilitation agencies

(6) Comprehensive outpatient rehabilitation facilities

(7) Rehabilitation hospital outpatient services.

e. Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (charge to the general public), or Medicare (Title XVIII) allowances:

(1) Physicians' services (*Supplement I has obstetric/pediatric fees.*)

(2) Dentists' services

(3) Mental health services including:

Community mental health services

Services of a licensed clinical psychologist

Mental health services provided by a physician

(4) Podiatry

(5) Nurse-midwife services

(6) Durable medical equipment

(7) Local health services

(8) Laboratory services (Other than inpatient hospital)

(9) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

(10) X-Ray services

(11) Optometry services

(12) Medical supplies and equipment.

f. Payment for pharmacy services shall be the lowest of items (1) through (5) (except that items (1) and (2) will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the

brand cost is higher than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in items (6) and (7) below:

(1) The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs which are included both on HCFA's list of multiple source drugs and on the Virginia Voluntary Formulary (VVF), unless specified otherwise by the agency;

(2) The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF;

(3) The estimated acquisition cost established by the agency for legend drugs except oral contraceptives; plus the dispensing fee established by the state agency, or

(4) A mark-up allowance determined by the agency for covered nonlegend drugs and oral contraceptives; or

(5) The provider's usual and customary charge to the public, as identified by the claim charge.

(6) Payment for pharmacy services will be as described above; however, payments for legend drugs (except oral contraceptives) will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Payments will be reduced by the amount of the established copayment per prescription by noninstitutionalized clients with exceptions as provided in federal law and regulation.

(7) The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in skilled or intermediate care facilities. Reimbursements are based on the allowed payments described above plus the unit dose add on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

g. All reasonable measures will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients including those measures specified under 42 USC 1396(a)(25).

h. The single state agency will take whatever measures are necessary to assure appropriate audit of records whenever reimbursement is based on costs of providing care and services, or on a fee-for-service plus cost of materials.

Final Regulations

i. Payment for transportation services shall be according to the following table:

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency ambulance	Rate set by the single state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency
Air ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special Emergency transportation	Rate set by the single state agency

j. Payments for Medicare coinsurance and deductibles for noninstitutional services shall not exceed the allowed charges determined by Medicare in accordance with 42 CFR 447.304(b) less the portion paid by Medicare, other third party payors, and recipient copayment requirements of this Plan.

k. Payment for eyeglasses shall be the actual cost of the frames and lenses not to exceed limits set by the single state agency, plus a dispensing fee not to exceed limits set by the single state agency.

l. Expanded prenatal care services to include patient education, homemaker, and nutritional services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

m. Targeted case management for high-risk pregnant women and infants up to age 1 shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

n. Reimbursement for all other nonenrolled institutional and noninstitutional providers.

(1) All other nonenrolled providers shall be reimbursed the lesser of the charges submitted, the DMAS cost to charge ratio, or the Medicare limits for the services provided.

(2) Outpatient hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid

based on the DMAS average reimbursable outpatient cost-to-charge ratio, updated annually, for enrolled outpatient hospitals less five percent. The five percent is for the cost of the additional manual processing of the claims. Outpatient hospitals that are nonenrolled shall submit claims on DMAS invoices.

(3) Nonenrolled providers of noninstitutional services shall be paid on the same basis as enrolled in-state providers of noninstitutional services. Nonenrolled providers of physician, dental, podiatry, optometry, and clinical psychology services, etc., shall be reimbursed the lesser of the charges submitted, or the DMAS rates for the services.

(4) All nonenrolled noninstitutional providers shall be reviewed every two years for the number of Medicaid recipients they have served. Those providers who have had no claims submitted in the past twelve months shall be declared inactive.

(5) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

o. Refund of overpayments.

(1) Providers reimbursed on the basis of a fee plus cost of materials.

(a) When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the addition.

amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(c) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

(d) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (ii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iii) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

(2) Providers reimbursed on the basis of reasonable costs.

(a) When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall

promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

(c) If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(d) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

Final Regulations

(e) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.]

VR 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Maximum Payment.

PEDIATRIC SERVICES		
CPT-4 Code	Description	Payment
1. Office Medical Services.		
NEW PATIENT		
90000	Office medical service, new patient; brief service	\$20.00
90010	limited service	25.00
90015	intermediate service	27.00
90017	extended service	33.00
90020	comprehensive service	36.75
ESTABLISHED PATIENT		
90030	Office medical service, established patient; minimal service	\$5.00
90040	brief service	15.00
90050	limited service	20.00
90060	intermediate service	23.00
90070	extended service	28.00
90080	comprehensive service	36.75
2. Emergency Department Services.		
NEW PATIENT		
90500	Emergency department service, new patient; minimal service	\$15.00
90505	brief service	21.00
90510	limited service	28.40
90515	intermediate service	42.00
90517	extended service	50.00
90520	comprehensive service	75.00
ESTABLISHED PATIENT		
90530	Emergency department services, established patient; minimal service	\$11.00
90540	brief service	21.00
90550	limited service	29.25
90560	intermediate service	30.00
90570	extended service	40.00
90580	comprehensive service	55.00
3. Immunization Injections.		
90701	Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)	\$17.91
90702	diphtheria and tetanus toxoids (DT)	4.18
90704	mumps virus vaccine, live	17.97
90705	measles virus vaccine, live, attenuated	16.13
90706	rubella virus vaccine, live	16.69
90707	measles, mumps and rubella virus vaccine, live	32.92
90708	measles and rubella virus vaccine, live	23.33
90709	rubella and mumps virus vaccine, live	25.02
90712	poliovirus vaccine, live, oral (any type(s))	12.32
90737	Hemophilus influenza B	20.25
Note: appropriate office visit may be billed in addition to the above immunization injections		
4. Preventive Medicine.		
NEW PATIENT		
90751	Initial history and examination related to the healthy individual,	\$31.50

Final Regulations

including anticipatory guidance;
 adolescent (age 12 through 17 years)
 90752 late childhood 31.00
 age 5 through 11 years
 90753 early childhood 31.00
 age 1 through 4 years
 90754 infant (age under 1 year) 32.00
 90755 Infant care to one year of age, 28.00
 with a maximum of 12 office visits
 during regular office hours, including
 tuberculin skin testing and immunization
 of DTP and oral polio
 90757 Newborn care, in other than hospital 26.25
 setting, including physical examination
 of baby and conference(s) with parent(s)

ESTABLISHED PATIENT

90761 Interval history and examination \$25.00
 related to the healthy individual,
 including anticipatory guidance,
 periodic type of examination;
 adolescent (age 12 through 17 years)
 90762 late childhood 28.00
 (age 5 through 11 years)
 early childhood 31.00
 age 1 through 4 years
 90764 infant (age under 1 year) 30.00
 90774 Administration and medical inter-
 pretation of developmental tests 10.00
 90778 Circadian respiratory pattern record-
 ing (pediatric pneumogram), 12 to
 24 hour continuous recording, infant 10.00

OBSTETRICAL SERVICES

1. Maternity Care and Delivery.

INCISION

59020 Fetal oxytocin stress test \$42.00
 59025 Fetal nonstress test 25.00
 59030 Fetal scalp blood sampling; 66.00
 repeat 22.25
 59050 Initiation and/or supervision of 40.95
 internal fetal monitoring during
 labor by consultant

REPAIR

59300 Episiotomy or vaginal repair only, by \$64.15
 other than attending physician; simple
 59305 extensive 183.55

DELIVERY, ANTEPARTUM AND POSTPARTUM CARE

59400 Total obstetric care (all-inclusive, \$930.00
 "global" care) includes antepartum care,
 vaginal delivery (with or without
 episiotomy, and/or forceps or breech
 delivery) and postpartum care
 59410 Vaginal delivery only (with or 670.00
 without episiotomy, forceps or breech
 delivery) including in-hospital
 postpartum care (separate procedure)
 59412 External cephalic version, with or 84.00
 without tocolysis
 59420 Antepartum care only 232.00
 separate procedure
 59430 Postpartum care only 28.00
 separate procedure

CESAREAN SECTION

59500 Cesarean section, low cervical, \$961.00
 including in-hospital postpartum care;

(separate procedure)

59501 including antepartum and 1221.00
 postpartum care
 59520 Cesarean section, classic, 961.00
 including in-hospital postpartum care;
 (separate procedure)
 59521 including antepartum an 1221.00
 postpartum care
 59540 Cesarean section, extreaperitoneal, 1169.00
 including in-hospital postpartum care;
 (separate procedure)
 59541 including antepartum and postpartum 1344.00
 care
 59560 Cesarean section with hysterectomy, 1169.00
 subtotal, including in-hospital
 postpartum care; (separate procedure)
 59561 including antepartum and postpartum 1344.00
 care
 59580 Cesarean section with hysterectomy, 1169.00
 total, including in-hospital
 postpartum care; (separate procedure)
 59581 including antepartum and postpartum 1344.00
 care

ABORTION

59800 Treatment of spontaneous abortion, \$137.50
 first trimester; completed medically
 59801 completed surgically 338.50
 separate procedure
 59810 Treatment of spontaneous abortion, 360.00
 second trimester; completed medically
 59811 completed surgically 475.00
 separate procedure
 59820 Treatment of missed abortion, any 400.00
 trimester, completed medically or
 surgically
 59830 Treatment of septic abortion 229.15

2. Diagnostic Ultrasound.

PELVIS

76805 Echography, pregnant uterus, B-scan \$90.00
 and/or real time with image documentation;
 complete
 76815 limited (fetal growth rate, 60.00
 heart beat, anomalies, placental
 location)
 76816 follow-up or repeat 45.00
 76818 Fetal biophysical profile 75.00
 76825 Echocardiography, fetal heart in utero 29.55
 76855 Echography, pelvic area (Doppler) 33.00

Title of Regulation: VR 460-04-8.5. Home and Community Based Services for Technology Assisted Individuals.

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

Effective Date: June 22, 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 7:11 V.A.R. 1624-1638 February 25, 1991.

REGISTRAR'S NOTICE: This regulation is excluded from

Final Regulations

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, and § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 460-04-8.900. Public Participation Guidelines in the Formation and Development of Regulations.

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

Effective Date: July 3, 1991.

Summary:

The purpose of this regulatory action is to amend the agency's Public Participation Guidelines to be consistent with provisions of the current Code.

Effective October 1984, the Department of Medical Assistance Services (DMAS) became subject to the Administrative Process Act. Because the State Plan is a "regulation" as defined in § 9-6.14:4 F of the Code, amendments to it must be promulgated in accordance with the Administrative Process Act.

The Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) requires the development and use of Public Participation Guidelines by executive agencies. DMAS' Public Participation Guidelines became effective November 1, 1985. Since their initial promulgation, the regulations have not been revised.

This amendment will cause these regulations to conform with Code language permitting the Director of the Department to promulgate regulations in lieu of the board. They also provide technical language corrections to the original regulatory language.

VR 460-04-8.900. Public Participation Guidelines.

§ 1. Definitions.

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

"Board" means the Board of Medical Assistance Services.

"Director" means the Director of the Department of Medical Assistance Services.

"Department" or "DMAS" means the Department of Medical Assistance Services.

"Formation and development process" means those activities with respect to a specific regulation which occur between the publication of a notice of intent to develop or modify regulations, and the release of the proposed regulation for public comment.

"Regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic law.

§ 2. General information.

A. Authority.

Chapter 1.1:1 of Title 9 of the Code of Virginia, deals with the promulgation of rules and regulations. Specifically, § 9.6.14:7.1 directs agencies of the Commonwealth to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations. Section 32.1-325 of the Code of Virginia empowers the Board of Medical Assistance Services to make, adopt, and promulgate regulations.

B. Purpose.

These regulations are designed to provide consistent, written guidelines in order to ensure input from interested parties at all stages of the regulatory process.

C. Administration.

~~State Board of Medical Assistance Services.~~ The Board of Medical Assistance Services ~~has~~ shall have the responsibility for promulgating regulations pertaining to public input in the regulatory process. Pursuant to § 32.1-324 C, the director shall have this responsibility and authority when the board is not in session, subject to such rules and regulations as may be prescribed by the board.

D. Application of regulations.

These regulations shall have general application throughout the Commonwealth.

E. Effective date.

~~November 1, 1985.~~

F. E. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision of these regulations. All hearings deemed necessary by the director on such regulations, shall be conducted in accordance with § 9-6.14:7.1.

G. Severability.

If any provision of these regulations or the application of them to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions of the application, and to this end, the provisions of these regulations and the various applications of them are declared to be severable.

§ 3. Identification of interested parties.

A. Existing data.

The department will maintain a list of those persons and organizations who have demonstrated an interest in certain program regulations in the past through participation in regulatory hearings, correspondence, or other activities with the department.

B. Development of new lists.

Periodically, the department shall publish a notice in The Virginia Register of Regulations, in a newspaper published at Richmond, and in other *major* newspapers in Virginia localities, a request that any individual or organization interested in participating in the development of specific rules and regulations to notify the office of the Director. Any persons or organizations identified in this process will be incorporated in the lists developed under § 3 A. The director may periodically remove from the lists persons or organizations that request to be removed or who fail to respond to an inquiry regarding continued interest.

§ 4. Notification of interested parties.

A. Individual mailings.

When the Director of the Department of Medical Assistance Services *DMAS* determines that specific regulations need to be developed or modified, the program may notify by mail the individuals and organizations identified in § 3 of these regulations. The notice will *shall* include the title of the regulation to be developed or modified; a summary of the subject matter; the program contact person, mailing address, and telephone number; and the date by which a notice of a desire to participate in the formation and development process must be received. This rule shall not be mandatory where the department is formulating and developing regulations pursuant to court order, or *federally required action or General Assembly action*, but whenever time permits every effort will be made to provide such notice.

B. Notice of intent.

When the department determines that specific regulations need to be developed or modified, the department will publish a Notice of Intent in The Virginia

Register of Regulations. This notice will include the title of the regulation to be developed or modified; a summary of the subject matter; the program contact person, mailing address and telephone number; and the date by which a notice of a desire to participate must be received.

C. An announcement shall be sent to members of the Governor's Advisory Committee on the Medicare and Medicaid and the board of the department.

§ 5. Solicitation of input from interested parties.

A. Advisory panels.

The department's rule-making is so frequent that the Governor's Advisory Committee on Medicare and Medicaid will function as the department's on-going advisory panel. Based on the scope and nature of the regulatory issue, the director may, at his discretion, establish a sole function advisory panel to assist in this development or modification.

B. Membership of panels.

Members of these sole-function advisory panels will be individuals and organization representatives identified under § 3 of these regulations and who have expressed the desire to participate in the department's regulatory process. Panel membership will consist of individuals oriented to the department, program issues and constraints of the intended regulations and representatives of entities governed by the proposed regulations. Advisory panels will consist of no less than three nor more than seven members.

C. Operation of panels.

Individual panels will establish their own operating procedure, but in every case a panel will meet once and then will decide on subsequent meetings. All panel and other comments on proposed regulations will be developed for each comment. A written report on the public and panel comments will be prepared and the subsequent decision or action recommended shall be prepared by departmental staff and submitted to the Board of the Department of Medical Assistance Services for review and approval.

D. Exceptions.

The use of an advisory panel may be waived at the director's discretion when :

(i) 1. There is no response to the notice of intent,

(ii) 2. The office of the Attorney General determines that regulations are promulgated to comply with state or federal law or federal regulation and that no agency discretion is involved, or

(iii) 3. When the program is formulating and

Final Regulations

developing regulations pursuant to a court order.

E. Other comments.

All persons and organizations who notify programs of the Department of Medical Assistance Services under § 4 of their desire to comment shall be provided an opportunity to examine regulations in their developmental stage and to provide written comments on these regulations to the department. The department will shall document the receipt of these comments and will respond to all comments. This rule shall not be mandatory when the department is formulating and developing regulations pursuant to a court order but every effort will be made to comply.

§ 6. Administrative Process Act procedures.

After regulations have been developed according to these guidelines they will shall be submitted for public comment in accordance with the Administrative Process Act.

DEPARTMENT OF MINES, MINERALS AND ENERGY

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to Virginia statutory law where no agency discretion is involved. The Department of Mines, Minerals and Energy will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 480-03-19. Coal Surface Mining Reclamation Regulations.

Statutory Authority: §§ 45.1-1.3 and 45.1-230 of the Code of Virginia.

Effective Date: July 1, 1991.

Summary:

The Virginia Department of Mines, Minerals and Energy is amending its regulations pertaining to the Coal Surface Mining Reclamation Fund (Pool Bond Fund) to comply with statutory changes made by the General Assembly. The amendments will:

1. Require applicants to demonstrate a history of compliance of three consecutive years to qualify to participate in the Pool Bond Fund:

2. Increase the entrance fee from \$1,000 to \$5,000 whenever the fund balance falls below \$1.75 million, and until the balance again exceeds \$2 million, and require a permit renewal fee of \$1,000;

3. Increase the minimum required bond and per-acre bond amounts for acreage permitted after July 1, 1991:

4. Require a bond amount equal to the actual estimated cost of reclamation for Pool Bond Fund sites that have been in temporary cessation status for more than six months; and

5. Increase the rate of reclamation taxes charged to Pool Bond Fund participants.

The amendments are designed to help ensure that the Pool Bond Fund maintains an adequate balance to cover the cost of reclamation of participating coal mine sites where bonds have been forfeited. Because these provisions have been enacted by the General Assembly and the agency has no discretion in adopting the regulations, the regulatory amendments are exempt from the public participation requirements of the Virginia Administrative Process Act (§ 9-6.14:1 et seq.).

Part 480-03-19.801. Coal Surface Mining Reclamation Fund, Penalties and Self-bonding.

VR 480-03-19.801.2. Scope.

The regulations of this part establish the procedures and requirements for an alternative bonding system through which the division will implement and administer the Coal Surface Mining Reclamation Fund (Pool Bond Fund) as established under Article 5, Chapter 19, Title 45.1 of the Code of Virginia.

VR 480-03-19.801.4. Objective.

The objective of this Part is to set forth the requirements and procedures that a participating applicant must comply with in order to be relieved of the bonding requirements of §§ 480-03-19.800.14 and 480-03-19.800.17.

VR 480-03-19.801.11. Participation in the Pool Bond Fund.

(a) Participation in the Pool Bond Fund shall be at the option of any applicant for a permit under the Act and the regulations promulgated thereunder who can demonstrate to the division's satisfaction at least a consecutive three-year history of compliance under the Act or any other comparable State or federal act .

(b) All participants in the Pool Bond Fund shall:

(1) Pay all entrance fees to the Pool Bond Fund as required by § 480-03-19.801.12(a), and

(2) Comply with the applicable parts of § 45.1-241 of the Code of Virginia.

(c) Commencement of participation in the Pool Bond Fund shall constitute an irrevocable commitment by it

Final Regulations

permittee to participate therein as to the applicable permit and for the duration of the coal surface mining operations covered thereunder.

(d) All fees taxes are nonrefundable.

(e) The division shall, as provided by § 45.1-270.5(B) of the Code of Virginia, utilize those moneys from the interest accrued to the fund which are required to properly administer the Pool Bond Fund. These moneys shall be used to support one position for administration of the Pool Bond Fund; however, if it is apparent that such position is insufficient to ensure proper administration of the Pool Bond Fund, the division may upon proof of need, and upon concurrence with the Pool Bond Fund Advisory Committee, obtain additional assistance.

VR 480-03-19.801.12. Entrance Fee and Bond.

(a) An applicant filing a permit application for coal surface mining operations and electing to participate in the Pool Bond Fund shall prior to permit issuance pay into the Pool Bond Fund ; as an entrance fee ; a sum equal to \$1,000 for the applicable permit application. *An entrance fee of \$5,000 shall be required of all applicants who elect to participate in the Fund when the total balance of the Fund is determined to be less than \$1,750,000. The entrance fee shall be reduced to \$1,000 when the total Fund balance is greater than \$2 million. A renewal fee of \$1,000 shall be required of all permittees in the Fund at permit renewal.* The fee shall be made payable to the treasurer of Virginia and shall be in the form of cash, cashier's check, certified check, or personal check.

(b) An applicant electing to participate in the Pool Bond Fund shall, in accordance with § 45.1-241 of the Code of Virginia, furnish a bond as provided by §§ 480-03-19.800.12, 480-03-19.800.14 and 480-03-19.800.16:

(1) For those underground mining operations participating in the Fund prior to July 1, 1991 , in the amount of \$1,000 per acre covered by the permit application . In no event shall the total bond be less than \$40,000, *except that on permits which have completed all mining and for which completion reports have been approved prior to July 1, 1991, the total bond shall not be less than \$10,000.*

(2) For underground mining operations entering the Fund on or after July 1, 1991, and for additional acreage bonded on or after July 1, 1991, the amount of \$3,000 per acre. In no event shall the total bond for such underground operations entering the Fund on or after July 1, 1991, be less than \$40,000.

(3) For all other coal surface mining operations participating in the Fund prior to July 1, 1991 , in the amount of \$1,500 per acre covered by the each permit application and in . In no event shall such total bond be less than \$100,000, *except that on permits which have completed all mining and for*

which completion reports have been approved prior to July 1, 1991, the total bond shall not be less than \$25,000.

3. For combination mining operations at the following rate:

a. Combined underground mining operation and preparation plant/associated facility in the amount of \$1,000 per acre covered by the permit application. In no event shall the total bond be less than \$10,000.

b. Combined surface and underground mining operations prorated in the amount of \$1,500 for each acre to be surface mined; and \$1,000 per acre covered by the underground mining portion of the permit. In no event shall the total bond be less than \$10,000.

c. Combined surface mining operation and preparation plant/associated facility in the amount of \$1,500 per acre covered by the permit application. In no event shall the total bond be less than \$25,000.

4. For areas permitted exclusively for refuse disposal, in the amount of \$1,500 per acre covered by the permit application, provided that the refuse material originates from a coal processing plant participating in the Pool Bond Fund. In no event shall the total bond be less than \$25,000.

(4) For other coal mining operations entering the Fund on or after July 1, 1991, and for additional acreage bonded on or after July 1, 1991, the amount of \$3,000 per acre. In no event shall the total bond for such operations entering the Fund on or after July 1, 1991, be less than \$100,000.

(c) The director may accept the bond of an applicant of an underground mining operation without separate surety, as provided by § 480-03-19.801.13, upon a showing by such applicant of a net worth, total assets minus total liabilities (certified by an independent certified public accountant), equivalent to \$1 million. Such net worth shall be, during the existence of the permit, certified annually by an independent certified public accountant and the certification submitted on the anniversary date of the permit.

(d) The director may accept the bond of an applicant of a surface mining operation or associated facility without separate surety, upon a showing by the applicant of those conditions set forth in § 480-03-19.801.13(b).

(e) The bond liability shall extend to cover subsidence and mine drainage in accordance with § 480-03-19.800.14(c).

(f) The amount of the performance bond liability

Final Regulations

applicable to a permit shall be adjusted by the division as the acreage in the permit area is revised. The bond adjustments are not subject to the bond release procedures of § 480-03-19.801.17.

(g) Any mining operation participating in the Fund that has been in temporary cessation for more than six months as of July 1, 1991, shall, within 90 days of that date, post bond equal to the total estimated cost of reclamation for all portions of the permitted site which are in temporary cessation. Any mining operation participating in the Fund that has been in temporary cessation six months or less as of July 1, 1991, shall, within 90 days after the date on which the operation has been in temporary cessation for more than six months, post bond equal to the total estimated cost of reclamation for all portions of the permitted site which are in temporary cessation. Any mining operation participating in the Fund that enters temporary cessation on or after July 1, 1991, shall, prior to the date on which the operation has been in temporary cessation for more than six months, post bond equal to the total estimated cost of reclamation for all portions of the permitted site which are in temporary cessation. The amount of bond required for each area bonded under this subsection shall be determined by the division in accordance with § 480-03-19.800.14. Such bond shall remain in effect throughout the remainder of the period during which the site is in temporary cessation. At such time as the site returns to active status, the bond posted under this subsection may be released, provided the permittee has posted bond pursuant to subsection (b) of this section.

VR 480-03-19.801.13. Self-bonding.

(a) The division may accept a self-bond from the applicant of a proposed underground mining operation.

(1) The applicant shall designate the:

(i) Name and address of a suitable agent to receive service of process in the Commonwealth.

(ii) Name and address of the certified public accountant(s) who prepared the statement required by this section.

(iii) Location of the financial records used to prepare the C.P.A. statement required by this section.

(2) The applicant has a net worth, certified by an independent Certified Public Accountant in the form of an unqualified opinion appended to the financial statement submitted, of no less than \$1 million after total liabilities are subtracted from total assets. If the applicant is a subsidiary corporation, the applicant's parent organization's net worth need only be certified by the independent Certified Public Accountant, if the applicant uses or includes any assets or liabilities of the parent organization in computing or arriving at the applicant's net worth. Where the division has a valid reason to believe that the

permittee's net worth is less than required by this subsection, it may require a new Certified Public Accountant's statement and certification.

(3)(i) A cognovit note must be executed by the applicant, and said agreement must also be executed by:

(A) If a corporation, two corporate officers who are authorized to sign the note by a resolution of the board of directors, a copy of which shall be provided;

(B) To the extent that the history or assets of a parent organization are relied upon to make the showings of this part, the parent organization of which it is a subsidiary, whether first-tier, second-tier, or further removed, in the form of (A) above;

(C) If the applicant is a partnership, all of its general partners and their parent organization or principal investors; and

(D) If the applicant is a married individual, the applicant's spouse;

(ii) Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the note;

(iii) The cognovit note shall be a binding obligation, jointly and severally, on all who execute it;

(iv) For the purposes of this paragraph, principal investor or parent organization means anyone with a 10% or more beneficial ownership interest, directly or indirectly, in the applicant.

(b) The division may accept a self-bond from the applicant of a proposed surface mining operation or associated facility. The applicant shall provide the:

(1) Name and address of a suitable agent to receive service of process in the Commonwealth.

(2) Evidence indicating a history of satisfactory continuous operation.

(3) Evidence substantiating the applicant's financial solvency, with the appropriate financial documentation required by paragraph (a)(2) of this section.

(4) Indemnity agreement:

(i) Containing the date of execution;

(ii) Made payable to the "Treasurer of Virginia";

(iii) Immediately due and payable in the event of bond forfeiture of the permit;

(iv) Payable in a sum certain of money;

(v) Signed by the maker(s);

(vi) The indemnity agreement must be executed by the applicant and by:

(A) If a corporation, two corporate officers who are authorized to sign the agreement by a resolution of the Board of Directors, a copy of which shall be provided;

(B) To the extent that the history or assets of a parent organization are relied upon to make the showings of this part, the parent organization of which it is a subsidiary, whether first-tier, second-tier, or further removed, in the form of (A) above;

(C) If the applicant is a partnership, all of its general partners and their parent organization or principal investors; and

(D) If the applicant is a married individual, the applicant's spouse;

(vii) Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the indemnity agreement;

(viii) The indemnity agreement shall be a binding obligation, jointly and severally, on all who execute it;

(ix) For purposes of this paragraph, principal investor or parent organization means anyone with a 10% or more beneficial ownership interest, directly or indirectly, in the applicant.

(c) Whenever a participant in the Pool Bond Fund applies for an additional permit or permits, the C.P.A. certification required by paragraph (a)(2) or (b)(3) of this section shall be updated reflecting those prior reclamation obligations and self-bonding liabilities still in effect.

(d) If at any time the conditions upon which the self-bond was approved no longer prevail, the division shall require the posting of a surety or collateral bond before coal surface mining operations may continue. The permittee shall immediately notify the division of any change in his total liabilities or total assets which would jeopardize the support of the self-bond. If the permittee fails to have sufficient resources to support the self-bond, he shall be deemed to be without bond coverage in violation of § 480-03-19.800.11(b).

VR 480-03-19.801.14. Reclamation Tax.

(a) If at the end of any calendar quarter the total balance of the Pool Bond Fund, including interest thereon, is less than ~~\$750,000~~ \$1,750,000, the tax shall be initiated. All permittees participating in the Pool Bond Fund shall pay within 30 days after the end of each taxable calendar quarter, an amount equal to:

(1) ~~Two cents~~ Four cents per clean ton of coal

produced by the surface mining operation of the permit during the taxable calendar quarter.

(2) ~~One-cent~~ Three cents per clean ton of coal produced by the underground mining operation of the permit during the taxable calendar quarter.

(3) ~~One-half cent~~ One and one-half cents per clean ton of coal processed or loaded by the preparation or loading facility operation of the permit during the taxable calendar quarter.

(b) If at the end of any calendar quarter the total balance of the Pool Bond Fund, including interest thereon, exceeds ~~\$1 million~~ \$2 million, payments shall be deferred until required by § 480-03-19.801.14(a).

(c) No permittee shall pay the reclamation tax on more than five million tons of coal produced per calendar year, regardless of the number of permits held by the permittee, except as provided in subsection (e) of this section.

(d) In no event except as provided in subsection (e) of this section, shall the division require any permittee participating in the Pool Bond Fund:

(1) Holding more than one type of permit to pay a reclamation tax at a rate in excess of ~~two and one-half cents~~ five and one-half cents per ton on coal originally surface mined by that permittee or in excess of ~~one and one-half cents~~ four and one-half cents per ton on coal originally deep mined by that permittee; or

(2) Holding one permit upon which coal is both mined and processed or loaded to pay more than the tax applicable to the surface mining operation or underground mining operation. However, the permittee shall pay the ~~one-half cent~~ one and one-half cents per clean ton for all coal processed and/or loaded at the permit which originated from other permits during the calendar quarter.

(e) Upon permit issuance for which bond is provided pursuant to this part, the permittee shall pay the applicable reclamation tax required by subsection (a) into the Pool Bond Fund on coal mined and removed under the permit during the one-year period commencing with and running from the date of the commencement of coal production, processing or loading from that permit.

VR 480-03-19.801.15. Collection of the Reclamation Tax and Penalties for Nonpayment.

(a) The division shall notify, in writing, each permittee participating in the Pool Bond Fund, at the end of each calendar quarter, of those periods during which the reclamation taxes are applicable or deferred. The permittee shall on a quarterly basis file a notarized copy of the "Coal Surface Mining Reclamation Fund Tax Reporting Form" with the division: Attention Commissioner.

Final Regulations

The permittee shall file the report by permit and applicable tonnage mined, processed, and/or loaded no later than the 15th day of the month after the end of each calendar quarter, even if no coal was mined, processed and/or loaded on the permits(s).

(b) Each permittee participating in the Fund shall submit to the division's Big Stone Gap Office full payment of the appropriate reclamation taxes required under § 480-03-19.801.14(a) or § 480-03-19.801.14(e) within 30 days after the end of the calendar quarter, when the taxes are applicable. Payment of the reclamation taxes shall be in cash, cashier's check, certified check or personal check made payable to the Treasurer of Virginia.

(c) Where the division has reason to suspect inaccurate reporting of the production of clean tons of coal, it may request to audit the relevant books and records of the permittee upon which the taxes paid under this part are based. The request shall be in writing and sent to the permittee or his authorized representative by certified mail, return receipt requested. Failure to consent to the request for the audit shall be deemed a violation of this part and subject to the enforcement procedures of Part 480-03-19.843. The audit shall be conducted at reasonable times during normal business hours and the permittee shall be given adequate advance notice of when the audit is to be conducted.

(d) If the permittee fails to make full payment of the reclamation taxes due under § 480-03-19.801.14, the division shall issue a notice of violation in accordance with § 480-03-19.843.12. The notice shall state that upon failure to make full payment within 15 calendar days thereafter, the division shall issue a cessation order to the permittee for failure to abate the notice of violation. If the cessation order is issued, the enforcement procedures of Part 480-03-19.843 shall apply.

(e) The division shall assess a civil penalty in accordance with Part 480-03-19.845 for the permittee's violation of the conditions set forth in this part. Civil penalties imposed upon the permittee for violation of this section, shall be placed in the Pool Bond Fund.

VR 480-03-19.801.16. Reinstatement to the Pool Bond Fund.

(a) A permittee who has defaulted on any reclamation obligation and has thereby caused the Pool Bond Fund to incur reclamation expenses as a result thereof, shall not be eligible to participate in the Pool Bond Fund for any new permit or any permit renewal thereafter until full restitution for such default has been made to the Pool Bond Fund. The director at his discretion and with the recommendation from the Coal Surface Mining Reclamation Pool Bond Fund Advisory Committee may require that the person seeking reinstatement pay interest at the composite rate determined by the Treasurer of Virginia compounded monthly.

(b) Compliance with subsection (a) shall be a

prerequisite to the filing by the permittee of any new permit application or renewal under the Act, but shall not affect the permittee's need to comply with all other requirements of the Act and the regulations promulgated thereunder in applying for a permit.

VR 480-03-19.801.17. Bond Release Application.

(a) The permittee participating in the Pool Bond Fund, or any person authorized to act upon his behalf, may file an application with the division for release of all or part of the bond furnished in accordance with § 480-03-19.801.12(b) for the increment areas which have been adequately reclaimed and vegetation established pursuant to the post mining land use. A minimum of one full growing season or a minimum of 12 months, whichever is longer, must have elapsed before the division will determine that the vegetation is adequately established. However, in no event shall the total bond of the permit be less than the minimum amounts established pursuant to § 480-03-19.801.12(b) prior to completion of the two full growing seasons and compliance with § 480-03-19.801.18. Bond liability shall continue for not less than five years, or as provided by § 480-03-19.800.13 or § 480-03-19.800.17(b).

(1) Applications may only be filed at times or seasons that allow the division to evaluate properly the reclamation operations alleged to have been completed. The times or seasons appropriate for the evaluation of certain types of reclamation shall be identified in the mining and reclamation operations plan required by Subchapter VG and approved by the division.

(2) The application shall include copies of letters sent to adjoining property owners, surface owners, local government bodies, planning agencies, and sewage and water treatment facilities or water companies in the locality of the permit area, notifying them of the permittee's intention to seek release of performance bond(s). These letters shall be sent before the permittee files the application for release.

(3) Within 30 days after filing the application for release the permittee shall submit proof of publication of the advertisement required by paragraph (b) of this section. Such proof of publication shall be considered part of the bond release application.

(b) The permittee seeking total or partial bond release shall, at the time of filing an application under this section, advertise the filing of the application as provided by § 480-03-19.800.40(a)(2).

(c) The division shall inspect and evaluate the reclamation work involved within 30 days after receiving a completed application for bond release, or as soon thereafter as weather conditions permit. The surface owner, or agent, or lessee shall be given notice of such inspection and may participate with the division in making the bond release inspection.

(d) Division review and decision. (1) The division shall consider, during the inspection evaluation, hearing and decision:

(i) Whether the permittee has met the criteria for release of the bond under § 480-03-19.801.18;

(ii) The degree of difficulty in completing any remaining reclamation, restoration, or abatement work; and

(iii) Whether pollution of surface and subsurface water is occurring, the probability of future pollution or the continuance of any present pollution, and the estimated cost of abating any pollution.

(2) If no public hearing has been held under paragraph (e), the division shall notify the permittee and any other interested parties in writing of its decision to release or not to release all or part of the performance bond or deposit within 60 days from the receipt of the completed application, or within 30 days from the public hearing if a public hearing was held.

(3) The notice of the decision shall state the reasons for the decision, and recommend any corrective actions necessary to secure the release.

(4) The division shall not release the bond until:

(i) The town, city, or other municipality nearest the operation and the county in which the surface coal mining and reclamation operation is located have received at least 30 days notice of the release by certified mail; and

(ii) The right to request a public hearing pursuant to § 480-03-19.800.40(f) has not been exercised, or a final decision by the hearing officer approving the release has been issued pursuant to § 480-03-19.800.40(f).

(e) Any person wishing to contest the division's decision to approve or disapprove the bond release shall have the right to appeal in accordance with § 480-03-19.800.40(f). In the event of an appeal, the division shall conduct the proceeding as provided by § 480-03-19.800.40(f) through (h).

VR 480-03-19.801.18. Criteria for Release of Bond.

(a) The division shall release the bond applicable to the permit area following completion of all reclamation, restoration, and abatement work required of the permittee by the approved plans, this chapter, and the Act.

(b) The minimum period of bond liability for the entire permit shall continue for not less than five years following completion of all reclamation work. This period of liability shall be in accordance with the provisions of §§ 480-03-19.800.13 and 480-03-19.800.17(b). The total amount of bond for the permit area following this period of liability shall be as provided in ~~paragraph~~ subsection (c)

of this section.

(c) The division may choose to release portions of the bond, if the areas sought for release are capable of supporting the proposed postmining land use independent of the successful completion of the reclamation of portions of the permit area still under bond or not yet initially disturbed. A minimum of two full growing seasons must have elapsed before the division will consider any bond release for the permit area. Reclamation shall be deemed to be adequate when:

(1) Revegetation has been established in accordance with approved reclamation plan and the standards for the success of revegetation are met;

(2) The lands are not contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements of Subchapter VK or the approved permit plans; and

(3) With respect to prime farmlands, soil productivity has been returned to the level of yield as required by § 480-03-19.785.17 and Part 480-03-19.823 when compared with nonmined prime farmland in the surrounding areas as determined from the soil survey performed under the plan approved under § 480-03-19.785.17; and

(4) The provisions of a plan approved by the division for the sound future management of any permanent impoundment by the permittee or landowner have been implemented to the satisfaction of the division.

(d) In the event a forfeiture occurs after partial bond release the division may, after utilizing the available bond moneys, utilize the Fund as necessary to complete reclamation liabilities for the permit area.

VR 480-03-19.801.19. Forfeiture.

In the event of bond forfeiture pursuant to § 480-03-19.800.50, the bond submitted in accordance with § 480-03-19.801.12(b) shall:

(a) Be utilized by the division in performing the necessary reclamation work before any moneys are utilized from the Pool Bond Fund; however,

(b) If an emergency, imminent danger or harm to the public or environment exists, the division may utilize the Pool Bond Fund for reclamation of those mining operations bonded pursuant to § 480-03-19.801.12 (c) and (d) if the director determines that collection will delay the essential and necessary reclamation work required. Bond amounts subsequently collected shall be deposited into the Pool Bond Fund, up to but not exceeding the full amount of liabilities which the Pool Bond Fund incurred.

Final Regulations

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

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

Title of Regulation: VR 615-01-38. Aid to Dependent Children - Earned Income Tax Credit (EITC) Disregard.

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

Effective Date: July 1, 1991.

Summary:

According to the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990), states must disregard earned income tax credit (EITC) payments and refunds received on or after January 1, 1991, as income and as a resource in the month of receipt and the month following the month of receipt. This regulation assures compliance with federal regulations and laws by disregarding EITC payments and refunds as specified by OBRA 1990.

VR 615-01-38. Aid to Dependent Children - Earned Income Tax Credit (EITC) Disregard.

PART I. DEFINITIONS.

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

"Aid to Dependent Children" means the program that provides financial assistance to needy children and their parent(s) who meet the categorical and financial requirements as specified by law.

"Assistance unit" means the individual or individuals who meet all categorical requirements and conditions of eligibility.

"Disregard" means the income or resources an assistance unit may be entitled to but are not used in determining financial eligibility for ADC.

"Earned income tax credit" means the payments or refunds low income working families may be entitled to who file for these payments and refunds.

"Income" means all income, both earned and unearned, which is available or expected to be available to the

assistance unit.

"Resources" means the amount of personal and real property, including cash and liquid assets, which may be retained by the assistance unit without affecting financial eligibility.

PART II. INCOME ELIGIBILITY.

§ 2.1. The earned income tax credit payments and refunds are disregarded as income to the assistance unit in the 185% gross income limitation in determining financial eligibility for the Aid to Dependent Children (ADC) Program.

PART III. RESOURCES ELIGIBILITY.

§ 3.1. The earned income tax credit payments and refunds are disregarded as a resource to the assistance unit in the month of receipt and the month following the month of receipt in determining eligibility for the Aid to Dependent Children (ADC) Program.



COMMONWEALTH of VIRGINIA

JOAN W SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 7, 1991

Mr. Larry D. Jackson, Commissioner
Department of Social Services
9507 Discovery Drive
Richmond, Virginia 23229-8699

Re: VR 615-01-38 - Aid to Dependent Children - Earned
Income Tax Credit (EITC) Disregard

Dear Mr. Jackson:

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

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

Sincerely,

Joan W. Smith
Joan W. Smith
Registrar of Regulations

JWS:jbc

EMERGENCY REGULATIONS

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Title of Regulation: VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Effective Dates: April 26, 1991, through April 4, 1992.

Preamble:

Emergency regulations are promulgated in response to the establishment of a new contract for telecommunications devices. Under this contract, the first equipment to satisfy both the criteria established by the State Comptroller's Office as a fixed asset and the new criteria established by the Department of Accounts as a capital asset is now available for dissemination. Since this new equipment will be classified as a capital asset, a regulations change is needed to mandate that the ownership of any telecommunications device distributed through the Virginia Department for the Deaf and Hard of Hearing's Telecommunications Assistance Program, which individually has a value or cost in excess of \$5,000, be retained by the Department. Emergency regulations are needed to ensure the provision of equipment to citizens of the Commonwealth in a timely and efficient manner.

REQUEST: The Virginia Department for the Deaf and Hard of Hearing (VDDHH) is requesting approval for text newly adopted on an emergency basis for Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.

RECOMMENDATION: The Secretary of Health and Human Resources recommends that the request for emergency approval be approved by the Governor.

CONCURRENCES:

/s/ Kathy E. Vesley
Acting Director of VDDHH
Date: April 4, 1991

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: April 5, 1991

AUTHORIZATION:

/s/ Lawrence Douglas Wilder
Governor
Date: April 24, 1991

FILED:

/ Joan W. Smith

Registrar of Regulations
Date: April 26, 1991

VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The words and terms used in these regulations have the following meanings unless the context indicates otherwise: incoming sounds for hearing-impaired persons or outgoing sounds for speech-impaired persons.

"Amplified handset" means a mechanical device that amplifies either incoming sounds for hearing-impaired persons or outgoing sounds for speech-impaired persons.

"Applicant" means a person who applies for telecommunications equipment.

"Application" means the TAP Application (VDDHH-TDD-1).

"Audiologist" means any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting hearing and related communicative disorders or who assists persons in the perception of sound and is not authorized by another regulatory or health regulatory board to perform any such services.

"Braille TDD" means an electrical device for use with a telephone that utilizes a keyboard, an acoustic coupler, a visual display and a braille display to transmit and receive messages.

"Completion date" means the date all supporting documentation for the application is received by the department.

"Coordinator" means the Coordinator for Statewide Telecommunications Programs for the Deaf of the Virginia Department for the Deaf and Hard-of-Hearing.

"Coupon" means a voucher which may be used by the recipient as credit toward the purchase of approved telecommunications equipment from a contracted vendor.

"Deaf" means the presence of a hearing impairment that requires use of a telecommunications device for the deaf to communicate effectively on the telephone.

"Deaf-blind" means the presence of a hearing impairment and a visual impairment that requires use of a braille or large-print TDD to communicate effectively on the telephone.

Emergency Regulations

"Department" means the Virginia Department for the Deaf and Hard-of-Hearing.

"Director" means the Director of the Virginia Department for the Deaf and Hard-of-Hearing.

"Family" means the applicant, his dependents and any person legally required to support the applicant, including spouses.

"Gross income" means the income, total cash receipts before taxes from all sources of the applicant, his dependents and any person legally required to support the applicant including spouses.

"Minor" means a person less than 18 years of age whose parents are legally responsible for his support.

"Outreach specialist" means a person hired by the department to provide outreach services and to assist the department in carrying out activities related to the Telecommunications Assistance Program on either a regional or local level.

"Physician" means a person who has a medical degree and a license to practice medicine in any one of the United States.

"Program" or *"TAP"* means Telecommunications Assistance Program for distributing telecommunications equipment to deaf, severely hearing-impaired, deaf-blind and speech-impaired persons who meet eligibility requirements through an application process.

"Public assistance" means and includes aid to dependent children; auxiliary grants to the aged, blind and disabled; medical assistance; food stamps; general relief; fuel assistance; and social services.

"Recipient" means a person who receives telecommunications equipment or a coupon valid toward the purchase of the equipment.

"Ring signal device" means a mechanical device that alerts a deaf, severely hearing-impaired or deaf-blind person of an incoming call.

"Severely hearing-impaired" means a hearing loss that requires use of either a Telecommunications Device for the Deaf or an amplified telephone handset to communicate effectively on the telephone.

"Speech-impaired" means a loss of verbal communication ability which prohibits normal usage of a standard telephone handset.

"Speech pathologist" means any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting speech, voice or language and is not authorized by another regulatory or health regulatory

board to perform any such services.

"Telecommunications devices for the deaf" (hereinafter called TDD) means an electrical device for use with a telephone that utilizes a keyboard, acoustic coupler and display screen to transmit and receive messages.

"Telecommunications equipment" means any mechanical adaptation for a telephone needed by a deaf, a hearing-impaired or a speech-impaired person in order to use the telephone, including amplified handsets, ring signaling devices, and braille, large-print or regular-print TDDs.

PART II. DETERMINING OWNERSHIP.

§ 2.1. Ownership guidelines.

A. Any telecommunications device or component distributed through the program is the property of the individual recipient except for any device which, individually, has a value or cost in excess of \$5,000 at the date of acquisition.

B. The department shall retain ownership of any telecommunications device or component distributed through the program that costs \$5,000 or more.

1. Where ownership of telecommunications devices or components is retained by the department, the department, in its discretion, may suspend part or all of the following regulations as deemed necessary.

PART II. PART III. PARTICIPATION OF APPLICANT.

§ ~~2-1~~ § 3.1. Eligibility requirements.

Upon request for telecommunications equipment by an applicant, the department will require information as to the family size, financial status, and other related data as described on the application. It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for telecommunications equipment. Applicants eligible to participate in the program shall meet the following requirements:

1. The applicant must be certified as deaf, severely hearing-impaired, deaf-blind, or speech-impaired by a licensed physician, audiologist, speech-language pathologist, vocational rehabilitation counselor employed by the Department of Rehabilitative Services or the Department for the Visually Handicapped, a Virginia School for the Deaf and Blind representative, or other appropriate agency or government representative.

2. The applicant shall reside in the Commonwealth of

Emergency Regulations

Virginia.

3. An applicant shall submit a completed application.

~~§ 2.2.~~ § 3.2. Charges for equipment.

Eligible applicants shall be granted program participation based on a first-come, first-served basis and the availability of program funds. The participation of applicants shall be by coupon. ~~(See Part IV.)~~ See PART V.

The approved applicant may use his coupon in addition to his contribution, as defined in subdivisions A 1 and 2 of ~~§ 2.2~~ § 3.2 of these regulations, to purchase the approved equipment at the state contract rate.

A. Cost of the program to applicant.

If the individual or family monthly gross income is such that a charge for telecommunications equipment is required, an explanation of the charges shall be provided to the recipient.

1. An applicant shall not be required to participate in the cost of telecommunications equipment if his individual or family monthly gross income is :

a) if his individual or family monthly gross income is:

a. 1) Obtained solely from, any one or combination of, public assistance, as defined in Part I of these regulations, earnings of minor children or gifts, or any combination thereof; or

b. 2) Less than or equal to the Economic Needs Guidelines found in subdivision A 3 of ~~§ 2.2~~ § 3.2 of these regulations.

b) If ownership of telecommunications devices or components is retained by the department.

2. Any other applicant shall be required to participate in the cost of any telecommunications equipment distributed to the applicant. The portion paid by the applicant to the vendor shall be equal to the amount which his individual or family monthly gross income exceeds the following Economic Needs Guidelines. However, this amount shall not exceed the approved equipment total price or \$75, whichever is lower.

3. Statewide Economic Needs Guidelines. The same formula used to determine the following sets of Economic Needs Guidelines shall be applied where the number of family members exceeds six.

	Monthly Gross Income	Annual Gross Income
Family of 1	\$1,210	\$14,520
Family of 2	1,583	18,996

Family of 3	1,995	23,940
Family of 4	2,327	27,924
Family of 5	2,699	32,388
Family of 6	3,072	36,864

a. Northern Virginia Economic Needs Guidelines. To be used for applicants residing in Arlington, Fairfax, Loudoun, and Prince William counties and the incorporated cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

	Monthly Gross Income	Annual Gross Income
Family of 1	\$1,319	\$15,828
Family of 2	1,726	20,712
Family of 3	2,175	26,100
Family of 4	2,537	30,444
Family of 5	2,942	35,304
Family of 6	3,349	40,188

b. If an applicant is paying monthly installments toward a debt(s), then the amount of one monthly installment will be subtracted from the applicant's expected contribution before the valid amount of the coupon is determined, under the following conditions:

1. The debt(s) is owed for nonpreventative medical or dental services; and
2. The debt(s) is owed by or for the applicant or individuals whom the applicant is legally responsible to support or is legally supported by.

~~§ 2.3.~~ § 3.3. Type of equipment.

The applicant must choose the type(s) of equipment requested based upon the applicant's sensory loss. The equipment available through the program includes: TDDs, braille TDDs, amplified handsets and ring signal devices.

**PART III. PART IV.
APPLICATION PROCEDURES.**

~~§ 3.1.~~ § 4.1. The application may be obtained from the department or the department's outreach specialists or other authorized distribution centers. Completed applications shall be forwarded to:

Virginia Department for the Deaf and Hard-of-Hearing
ATTN: TAP Program
Washington Building
Capitol Square
1100 Bank Street

Emergency Regulations

12th Floor
Richmond, VA 23219-3640.

The VDDHH telephone number is 1-800-552-7917 (V/TDD) or (804) 225-2570 (V/TDD).

~~§ 3.2.~~ § 4.2. Processing applications.

A. The coordinator shall approve all applications for which eligibility requirements defined in ~~§ 2.1.~~ § 3.1 are satisfied, except as provided in subsections B and , C and D of this regulation.

B. Original application shall not be approved:

1. When the applicant has already been issued a coupon which is still valid towards the purchase of telecommunications equipment under this program.
2. When the applicant has received a device from the TAP Program within the preceding four years.

C. Application for replacement equipment shall not be approved when:

1. A device previously issued by the department has been subjected to abuse, misuse or unauthorized repair by the recipient.
2. The recipient fails to provide a police report of a stolen device or refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court when requested to do so.
3. The recipient is found negligent in the police report, such as doors to the house or car left unlocked or unattended.
4. The recipient has lost the device.
5. The recipient has sold the device.

D. Eligibility requirements regarding financial data and family size may be waived by the department if ownership of telecommunications devices or components is retained by the department.

~~§ 3.3.~~ § 4.3. Notice of action on approved or denied applications.

The recipient shall be notified of a decision regarding an original application within 30 days of the completion date.

**PART IV: PART V.
COUPON SYSTEM.**

~~§ 4.1.~~ § 5.1. Coupons.

A coupon for purchase of telecommunications equipment

based on an original application will be processed as follows:

1. The TAP Program Coordinator shall issue coupons varying in amount, but not exceeding the equipment's contracted price, for the purchase of approved equipment to persons determined to be eligible for the program. The coordinator will attach a list of contracted vendors who sell the approved telecommunications equipment.

a. Coupons shall not be issued if the department retains ownership of the telecommunications device or component.

2. The coupon shall entitle the recipient to purchase the approved equipment at the state-contract rate.

3. The recipient shall present or send the coupon to the vendor to make a purchase of approved equipment within 30 days of the coupon's issuance date.

4. The coupon shall have the signature and signature date of the recipient. The signature date indicates the order date for approved equipment by the recipient.

5. The vendor shall complete its section of the coupon, including signature and date, documenting the corresponding serial numbers for all approved equipment. The serial number for all equipment shall be required for reimbursement.

6. Within ~~30~~ 60 days of the order date, the vendor shall forward the coupon to the Virginia Department for the Deaf and Hard-of-Hearing (VDDHH). An invoice for payment shall accompany the coupon for reimbursement. When submitting the coupon and invoice for payment, the vendor shall provide proof of delivery to the recipient's home address. This proof shall include a signature indicating receipt of the approved equipment.

7. Payment reimbursed from VDDHH to the vendor shall not exceed the valid amount, found in the upper right-hand corner, of the coupon.

8. The difference between the equipment's state-contracted price under the program and the value of the coupon will be collected by the vendor from the recipient.

9. Upon receipt of the authorized coupon, accompanying invoice, and confirmation of satisfactory delivery of the equipment, VDDHH will process an accounting voucher for the valid amount. The agency accounting voucher will be processed with an appropriate due date in accordance with the terms and conditions set forth in the Commonwealth's Prompt Payment Act.

Emergency Regulations

4.2. Ownership:

If telecommunications devices distributed through the program are the property of the recipient.

§ 4.3. § 5.2. Liability.

Recipients shall be responsible for any repairs to or loss of a device issued in the program, *except where the department retains ownership of the device.*

PART V. PART VI. CONFIDENTIALITY.

§ 5.1. § 6.1. Confidentiality.

All TAP applications and other client materials shall be kept confidential by department personnel and other persons authorized by the department to view such materials. An applicant's award shall also be confidential and shall not be released without the applicant's permission.

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

Title of Regulation: Emergency Regulations of the Virginia Board of Historic Resources Governing Permits for the Archaeological Excavation of Human Remains.

Statutory Authority: § 10.1-2300 et seq. of the Code of Virginia.

Effective Dates: April 26, 1991 through October 25, 1991.

Preface:

The purpose of these regulations is to implement provisions of the Virginia Antiquities Act, §§ 10.1-2300 through 2306 of the Code of Virginia, until such time as final regulations may be promulgated by the Virginia Board of Historic Resources. These regulations are being reissued to allow for additional public participation in the development of final regulations.

Section 10.1-2305 of the Code of Virginia states:

It shall be unlawful for any person to conduct any type of archaeological field investigation involving the removal of human skeletal remains or associated artifacts from any unmarked human burial regardless of age on an archaeological site and regardless of ownership without first receiving a permit from the Director [of the Department of Historic Resources].

Furthermore, the Board is directed to promulgate regulations to implement § 10.1-2305 of the Code. Such regulations must provide for:

- 1. Appropriate public notice prior to issuance of a permit;*
- 2. Appropriate treatment of excavated remains;*
- 3. The scientific quality of the research conducted on the remains; and*
- 4. The appropriate disposition of the remains upon completion of the research.*

The purpose of this regulation is to implement the provisions of § 10.1-2305 until such time as final regulations are promulgated by the Board. In the interim there are or may be situations in which human burials which have or may have scientific or historic significance are threatened with immediate and unavoidable destruction. Threats include human actions, including development projects or construction, and natural processes, such as floods or erosion. In some cases, human remains are expected or anticipated. In others, remains are encountered unexpectedly. In still other cases, testing must be performed in order to determine whether remains are present. This regulation is intended to be restricted solely to those situations where failure to initiate a scientific investigation immediately would result in the irreversible loss of significant information. Such situations include but are not limited to:

- 1. Construction projects where avoidance or delays are not possible or would constitute major hardships; and*
- 2. Sites where natural processes such as floods or erosion threaten destruction.*

Accordingly, the Board finds that an emergency exists and that the promulgation of emergency regulations implementing § 10.1-2305 will address the emergency until regulations addressing all aspects of the excavation of human burials may be promulgated.

In accordance with § 9-6.14.4.1.C.6 of the Virginia Administrative Process Act, the Board, through the Director of the Department, will receive, consider, and respond to petitions by any interested party at any time with respect to reconsideration or revision of these emergency regulations.

These regulations will become effective upon their filing with the Registrar of Regulations, pursuant to § 9-6.14.9 of the Code of Virginia, and shall expire not later than twelve months thereafter, unless sooner superseded by permanent regulations adopted pursuant to the Administrative Process Act.

Emergency Regulations of the Virginia Board of Historic Resources Governing Permits for the Archaeological Excavation of Human Remains.

Emergency Regulations

PART I. DEFINITIONS.

Unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:

"Archaeological site" means a geographic area on dry land that contains any evidence of human activity which is or may be the source of important historic, scientific, archaeological or educational data to objects, regardless of age.

"Board" means the Virginia Board of Historic Resources.

"Department" means the Virginia Department of Historic Resources.

"Director" means the Director of the Department of Historic Resources.

"Emergency" means a situation in which human burials which have or may have scientific or historic significance are threatened with immediate and unavoidable destruction. Threats include human actions, including development projects or construction, and natural processes, such as floods or erosion. An emergency may exist regardless of whether the human remains are encountered unexpectedly, or may reasonably be anticipated or suspected.

"Field Investigation" means the study of the traces of human culture at any site by means of surveying, sampling, excavating, or removing surface or subsurface material, or going on a site with that intent.

"Person" means any natural individual, partnership, association, corporation, or other legal entity.

PART II. APPLICABILITY.

§ 2.0. This regulation shall apply to any person who conducts any field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site. This regulation also applies if archaeological investigations are undertaken as part of a court-approved removal of a cemetery.

PART III. PERMIT APPLICATION.

§ 3.0. Any person intending to conduct any field investigation involving or which may reasonably be anticipated to involve the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall first obtain a permit from the Director.

§ 3.1. Application for a permit shall be in such form as

required by the Director, but shall include the following:

A. A statement detailing goals and objectives of the project and proposed research strategy;

B. Qualifications of the applicant to complete the proposed work;

C. A statement describing the specific threats facing the human skeletal remains or associated artifacts;

D. A statement describing the proposed disposition of the remains upon completion of the research.

§ 3.2. The application shall be signed by the person who will conduct the field investigation and the owner of the property upon which the field investigation will occur, if different.

PART IV. PUBLIC COMMENT.

§ 4.0. Upon receiving notice from the Director that the permit application is complete, the applicant shall publish or cause to be published a notice in a newspaper of general circulation in the area where the field investigation will occur. The notice shall be of a form approved by the Director and shall invite interested persons to express their views on the proposed field investigation to the Director by a date certain prior to the issuance of the permit. Such notice shall be published once each week for four consecutive weeks.

§ 4.1. Prior to the issuance of a permit, the Director may elect to hold a public meeting on the permit application. The purpose of the public meeting shall be to obtain public comment on the proposed field investigation.

§ 4.2. If in the opinion of the Director the severity of the emergency is such that compliance with the above public notice requirements may result in the loss of significant information, the Director may issue a permit prior to completion of the public notice and comment requirements. In such cases the applicant shall provide for such public notice and comment as determined by the Director to be appropriate under the circumstances.

PART V. ISSUANCE OR DENIAL OF PERMIT.

§ 5.0. Upon completion of the public comment period, the Director shall decide whether to issue the permit. The Director may issue a permit only upon a finding that an emergency exists or where the excavation is otherwise required by law. In the event the Director received no adverse public comment, no further action is required prior to decision.

§ 5.1. The Director shall consider any adverse comment received and evaluate it in the light of severity of the emergency and the amount of scientific information whi

may be lost in the event no permit is issued. He may also take such comments into account in establishing any conditions of the permit.

§ 5.2. In the event the Director proposes to deny a permit application, the Director shall conduct an informal conference in accordance with §§ 9-6.14:11 of the Administrative Process Act.

§ 5.3. In making his decision on the permit application, the Director shall balance the following:

A. The level of threat facing the human skeletal remains;

B. The appropriateness of the goals, objectives, research design, and qualifications of the applicants to complete the proposed research in a scientific fashion. The Director shall consider the Standards and Guidelines of the United States Secretary of the Interior for Archaeology and Historic Preservation, set out at 48 Fed. Reg. 44716 (September 29, 1983), in determining the appropriateness of the proposed research and applicants;

C. Comments received from the public; and

D. The appropriateness of the proposed disposition of remains upon completion of the research. Final disposition of remains under these regulations may be subject to additional or different requirements in subsequent regulations promulgated by the Board.

§ 5.4. The permit shall contain such conditions which, in the judgment of the Director, will protect the excavated human remains or associated artifacts.

§ 5.5. A permit shall be valid for a period of time to be determined by the Director as appropriate under the circumstances.

§ 5.6. Upon his own initiative, or upon the request of any interested party, the Director may revoke any permit issued under these regulations for good cause shown. Such revocation shall be in accordance with the provisions of the Administrative Process Act.

PART VI. EXCAVATIONS BY THE DEPARTMENT.

§ 6.0. The Director may perform or cause to be performed a field investigation without a permit. The Director shall comply with the public notice and comment provisions described above.

PART VII. APPEALS.

§ 7.0. Any interested party may appeal the Director's decision to issue a permit or to act directly to excavate human remains to the local circuit court in accordance with § 10.1-2305.E of the Code of Virginia.

It is so ordered.

By: /s/ Robert A. Carter
For: Hugh C. Miller
Director
Date: April 19, 1991

Approved by: /s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: April 24, 1991

Approved by: /s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: April 25, 1991

Filed with: /s/ Joan W. Smith
Registrar of Regulations
Date: April 26, 1991

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-37. Aid to Dependent Children - Elimination of Monthly Reporting.

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

Effective Dates: May 1, 1991, through April 30, 1992.

Preamble:

The Aid to Dependent Children (ADC) Program is a federal program, funded from federal and state funds, established under Title IV of the Social Security Act to provide financial assistance and services to needy families with children. This program is administered statewide by the Department of Social Services through 124 local departments of social services.

Current ADC policy requires nine categories of ADC recipients to file a monthly report of income and circumstances every month in order to be considered for continuing eligibility for ADC. Monthly reporting was imposed by federal law in 1981 in an attempt to curtail erroneous payments and improve case management. The effectiveness of monthly reporting has been inconclusive based on available data. Even though monthly reporting has been a requirement since 1981, Virginia's error rate has been gradually increasing. Additionally, recent findings show that between 40% and 50% of all agency errors are caused by the agencies failure to act on reported changes. This suggests that local eligibility workers are inundated with paperwork, and follow-up functions, created by Congress to reduce errors and provide better case management. The results of such efforts appear to have a counter effect as local agencies are experiencing an inability to complete work necessary to ensure that benefit programs services are delivered in a timely and efficient manner.

Emergency Regulations

This emergency regulation is being promulgated in an effort to reduce and simplify the workload of local workers by eliminating the monthly reporting requirement. The monthly reporting process requires a handling of each monthly reporting case each month to determine if the report was filed, whether it was filed in a timely manner, impose penalties if not filed timely, sending notices if the report is not filed or is filed incompetently, and taking action on all reported changes. Eliminating monthly reporting will reduce paperwork and provide more time for workers to act on reported changes and deliver benefit services expeditiously. Timely initial eligibility determinations and reacting to reported changes will gain a higher priority in the eligibility worker function.

Due to the crisis situation existing at the local level where benefits are administered to the needy, the Department finds that this situation necessitates immediate promulgation of an emergency regulation. The emergency precludes the promulgation of said regulation from the public participation requirements of the Administrative Process Act, § 9-6.14:4.1 of the Code of Virginia.

Emergency approval of the Governor is needed to allow the Department to implement amended regulations immediately. The inability to do so enhances legal vulnerability to the Department with regard to meeting clients needs in a timely manner and jeopardizes the Department's commitment to serve the needy in a timely and efficient manner.

Immediately following approval and publication of the emergency regulation in the Virginia Register of Regulations, the Department of Social Services will initiate action to develop final regulations as required by the Administrative Process Act, § 9-6.14:4.1 of the Code of Virginia.

According to recent data, the local social services system is understaffed by approximately 325 eligibility workers. Based on the time allotted through caseload standards for dealing with the monthly reporting requirement, the impact at the local level will be more time to complete high priority functions such as timely processing of applications and acting on reported changes, which should prevent the error rate from rising above the federal tolerance level. Even with the deletion of monthly local agencies will continue to be significantly understaffed. However, since almost one-half of agency errors are due to the agencies' failure to act on reported changes, it is critical to address the local work overload and reduce the massive amount of paperwork in order to avoid federal fiscal sanctions that can result from the error rate continuing to rise.

Summary:

Pursuant to § 63.1-25 of the Code of Virginia, the

State Board of Social Services has been delegated the authority to promulgate rules and regulations necessary for the operation of public assistance programs in Virginia.

The Department of Social Services, in conjunction with the Attorney General's Office, is proposing to amend state ADC policy to eliminate the monthly reporting requirement.

VR 615-01-37. Aid to Dependent Children - Elimination of Monthly Reporting.

PART I. DEFINITIONS.

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

"Monthly reporting" is the process whereby an ADC recipient files a report of income and circumstances every month in order to be considered for continuing eligibility for ADC. (This reporting mechanism will terminate effective May 1, 1991, upon approval.)

"Reporting changes requirement" means the applicant/recipient must report all changes the day the change occurs or the next working day thereafter.

PART II. ELIMINATION OF MONTHLY REPORTING.

§ 2.1. Recipients, including those not eligible for a money payment due to the minimum payment requirement, are required to report monthly if: (a) earnings are being received by a member of the assistance unit (including student earnings) or a person living with the assistance unit whose earnings are deemed available (earnings are considered deemed when being received, regardless of whether they are sufficient to be counted in the grant computation); (b) any assistance unit member who has a recent work history, as well as those individuals whose earnings are deemed available to the unit; (c) unearned income is being counted in a computer calculated grant computation; (d) there is a stepparent in the home; (e) a child's deprivation is based on death or incapacity; (f) a child is 16, or older; (g) unearned income was counted in a computer calculated grant computation during the past three months; (h) earned income was counted in a computer calculated grant computation during the past six months; or (i) included in an ADC UP case. The reporting changes requirement is that the applicant/recipient must report all changes in income and circumstances the day the change occurs or the next working day thereafter.

Submitted by:

/s/ Larry D. Jackson
Commissioner

Emergency Regulations

Date: March 4, 1991

Approved by:

/s/ Lawrence Douglas Wilder

Governor

Date: April 23, 1991

Filed by:

/s/ Joan W. Smith

Registrar of Regulations

Date: April 24, 1991

STATE CORPORATION COMMISSION

Bureau of Insurance

April 19, 1991

Administrative Letter 1991-5

TO: All Insurers, Health Services Plans and Health Maintenance Organizations Licensed to Write Life Insurance or Accident and Sickness Insurance in Virginia

RE: Effective Date of New Section 38.2-508.1 of the Code of Virginia

The 1991 Virginia General Assembly, by passing two identical bills (HB 1385 and SB 847), created a new section of the Code of Virginia, Section 38.2-508.1, dealing with unfair trade practices (copy of SB 487 attached). This new section provides that the actions described are prohibited as being unfairly discriminatory. All insurers are therefore directed to immediately review their underwriting practices and to be sure that there is no violation of this new section of the Code of Virginia.

The Governor of Virginia on April 3, 1991, signed both versions of the law as emergency legislation, making Section 38.2-508.1 effective on April 3, 1991. As a result, immediate compliance with Section 38.2-508.1 is required.

Questions regarding the contents of this letter should be directed to:

Robert L. Wright, CLU, CIE
Supervisor, Forms and Rates Section
Life and Health Division
Bureau of Insurance
P. O. Box 1157
Richmond, Virginia 23209

/s/ Steven T. Foster
Commissioner of Insurance

1991 SESSION

VIRGINIA ACTS OF ASSEMBLY - CHAPTER 1003

An Act to amend the Code of Virginia by adding a section numbered 38.2-508.1, relating to life insurance for members of the armed forces and the National Guard.

[S 847]

Approved 4-3-91

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-508.1, as follows:

§ 38.2-508.1. Unfair discrimination; members of the armed forces.—A. No person shall refuse to issue or refuse to continue a life insurance policy on the life of any member of the United States Armed Forces, the Reserves of the United States Armed Forces or the National Guard due to (i) their status as a member of any such military organization or (ii) their duty assignment while a member of any such military organization.

B. In circumstances where an individual's or family member's coverage under a group life or group health insurance policy or contract was terminated due to such individual's status as a member of the United States Armed Forces, the Reserves of the United States Armed Forces or the National Guard, no person shall refuse to reinstate such coverage, regardless of continuation, renewal, reissue or replacement of the group insurance policy, upon the occurrence of the individual's return to eligibility status under the policy or contract. Such reinstated coverage shall not contain any new preexisting condition or other exclusions or limitations except that the remainder of a preexisting condition requirement that was not satisfied prior to termination of the individual's coverage resulting from such military status may be applied once the individual returns and coverage under the group policy is reinstated.

President of the Senate

Speaker of the House of Delegates

Approved:

Governor

Bureau of Insurance

April 23, 1991

Administrative Letter 1991-7

TO: All Group Self-Insurance Associations

RE: Contingency Reserve Funding Level Required by the Rules Governing Group Self-Insurers of Liability Under the Virginia Worker's Compensation Act (Insurance Regulation 16)

The purpose of this letter is to set forth the procedures under which a group self-insurance association may apply to the Commission for approval to cease additional funding of its contingency reserve as established by Section 12 of the referenced regulation.

Once an Association's contingency reserve reaches an amount equal to twelve percent of its latest three years' average annual premium, a request may be made that the annual funding requirement be suspended. The Commission will review each request on an individual basis to determine the funding adequacy and future additional requirements. Such review will consider the levels of specific and aggregate excess coverage and an Association's claims' history, and may or may not result in Commission approval to suspend further contributions. Approvals, if granted, will be valid for one year only.

Application should be made in writing to:

Paul W. Holzgrefe, Chief Examiner
Bureau of Insurance
P. O. Box 1157
Richmond, VA 23209

/s/ Steven T. Foster
Commissioner of Insurance

MARINE RESOURCES COMMISSION

FINAL REGULATIONS

MARINE RESOURCES COMMISSION

NOTICE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating regulations. However, the Commission is required to publish the full text of final regulations.

Title of Regulation: VR 450-01-9102. Opening of Deep Water Shoal, James River (Condemnation Areas 23 and 69).

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

Effective Dates: May 1, 1991, to June 1, 1991.

Preamble:

The following order of the Marine Resources Commission opens that area known as Deep Water Shoal, James River to the relaying of shellfish.

VR 450-01-9102. Opening of Deep Water Shoal, James River (Condemnation Areas 23 and 69).

§ 1. Authority, effective date.

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

B. Other laws and regulations:

1. Marine Resources Commission Order No. 450-01-8808, effective June 1, 1988, established the Deep Water Shoal seed area as a Repletion Program seed area and describes its boundaries.

2. Section 28.1-179 of the Code of Virginia sets forth the rules and procedures for relaying shellfish from condemned shellfish growing areas established by the State Health Department.

C. The effective date of this order is May 1, 1991.

§ 2. Purpose.

The purpose of this order is to open the area known as Deep Water Shoal in the James River to the relaying of oysters.

§ 3. Designated areas opened to relaying.

That area known as the Deep Water Shoal seed area within Condemnation Areas 23 and 69 in the James River is hereby opened to the relaying of oysters from May 1, 1991, through May 31, 1991.

§ 4. Expiration date.

This order shall terminate on June 1, 1991.

/s/ William A. Pruitt
Commissioner
Date: April 23, 1991

* * * * *

Title of Regulation: VR 450-01-9103. Closure of All Public Oyster Grounds in the James River.

Statutory Authority: §§ 28.1-82 and 28.1-85 of the Code of Virginia.

Effective Dates: June 1, 1991, to October 1, 1991.

Preamble:

The following order of the Marine Resources Commission closes all public oyster grounds in the James River to the taking of oysters.

VR 450-01-9103. Closure of All Public Oyster Grounds in the James River.

§ 1. Authority and effective date.

A. This order is promulgated pursuant to the authority contained in §§ 28.1-82 and 28.1-85 of the Code of Virginia.

B. The effective date of this order is June 1, 1991.

§ 2. Purpose.

The purpose of this order is to close all public oyster grounds in the James River to the taking of oysters in order to protect and promote the oyster resource in the area.

§ 3. Closed areas.

All public oyster grounds in the James River are hereby closed to the taking of oysters.

§ 4. Expiration date.

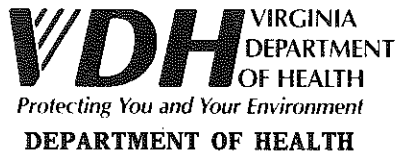
This order shall terminate on October 1, 1991.

/s/ William A. Pruitt
Commissioner
Date: April 23, 1991

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)



Title of Regulation: VR 355-40-04. Regulations Governing the Virginia Medical Scholarship Program.

Governor's Comment:

I concur with the concept of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 24, 1991

* * * * *

Title of Regulation: VR 355-40-05. Rules and Regulations for the Identification of Medically Underserved Areas in Virginia.

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 24, 1991

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-1920. Maximum Obstetric and Pediatric Payments.

Governor's Comment:

I concur with the concept of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 30, 1991

* * * * *

Title of Regulation: VR 460-04-8.5. Home and Community Based Care Services for Technology Assisted Individuals.

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 30, 1991

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-08-01. Virginia Energy Assistance Program.

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 24, 1991

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-03-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Participants.

Governor's Comment:

These regulations are intended to establish adequate qualifications and responsibilities for participants in race meetings licensed by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: April 30, 1991

* * * * *

Title of Regulation: VR 662-04-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Claiming Races.

Governor's Comment:

These regulations are intended to establish adequate conditions under which claiming races would be conducted at race meetings licensed by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

Governor

/s/ Lawrence Douglas Wilder
Governor
Date: April 30, 1991

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **VR 125-01-01. Public Participation Guidelines, VR 125-01-02. Advertising, VR 125-01-03. Tied House, VR 125-01-05. Retail Operations, VR 125-01-06. Manufacturers and Wholesalers Operations, and VR 125-01-07. Other Provisions.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending and repealing the board's regulations.

Pursuant to the Public Participation Guidelines contained in VR 125-01-1 § 5.1, the board intends to consider proposals to amend the regulations as set forth below and will conduct a public meeting on such proposals as indicated below:

1. VR 125-01-1 § 5.1. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

a. Subject of Proposal: To require the Department of Alcoholic Beverage Control ("A.B.C.") to initiate rulemaking procedures at least once every two years, rather than once a year, unless regulatory changes are otherwise necessitated by virtue of legislative mandate or by "special" or "emergency" requirements.

b. Entities Affected: A.B.C., A.B.C. licensees and the public.

c. Purpose of Proposal: To reduce the amount of time, expense and resources devoted by A.B.C., the public and A.B.C. licensees to an annual review of A.B.C. regulations which often includes redundant consideration of the same regulatory proposals.

d. Issue: Initiation of rulemaking procedures at least once every two years rather than every year.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-103(b), 4-98.14, and Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

f. Proposed By: Virginia Beer Wholesalers Association, Inc.

2. VR 125-01-1 § 5.1. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

a. Subject of Proposal: To make it discretionary rather than mandatory that an ad hoc advisory panel be selected to make recommendations on proposed regulations and to formulate draft language.

b. Entities Affected: A.B.C. and the public.

c. Purpose of Proposal: To allow the board the discretion to streamline the rulemaking procedures.

d. Issue: Board discretion to appoint, or not appoint, an ad hoc advisory panel.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-103(b), 4-98.14, and Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

3. VR 125-01-2 § 1. Advertising; generally; cooperative advertising; federal laws; beverages and cider; restrictions.

a. Subject of Proposal: (1) To clarify that if federal advertising regulations pertaining to alcoholic beverages conflict with more restrictive state regulations, then state regulations shall be followed; (2) to permit individuals who are of legal drinking age to order alcoholic beverages by mail from Virginia retail licensees; (3) to repeal subdivision F 8 so that sale prices for alcoholic beverages will no longer be required to "significantly conform in size, prominence and content to the advertising of nonalcoholic merchandise"; and (4) to clarify that a manufacturer may require the purchase of alcoholic beverages for a refund.

b. Entities Affected: A.B.C., A.B.C. licensees and the public.

c. Purpose of Proposal: (1) and (4) clarification; (2) to allow Virginia farm wineries and Virginia retail licensees to receive mail orders for alcoholic beverages; phone orders for alcoholic beverages are currently permitted; and (3) to repeal subdivision F 8 because discount chains currently advertise a page of alcoholic beverages at their every day low prices without being required to advertise nonalcoholic merchandise.

General Notices/Errata

d. Issues: (1) Clarification that more restrictive state regulations pertaining to alcoholic beverages shall be followed when they conflict with federal regulations pertaining to alcoholic beverages; (2) allowing adults 21 years or older to order alcoholic beverages by mail from Virginia retail licensees; (3) less restrictive advertising for alcoholic beverages; and (4) clarification that a manufacturer may require the purchase of alcoholic beverages for a refund.

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

f. Proposed By: Department of Alcoholic Beverage Control.

4. VR 125-01-2 § 2. Advertising; interior; retail licensees; show windows.

a. Subject of Proposal: (1) To allow neon illuminated alcoholic beverage advertising inside licensed retail establishments; and (2) to clarify "works of art."

b. Entities Affected: Restaurant and bar owners (retail licensees).

c. Purpose of Proposal: (1) By opening up the regulations on materials used for advertising, more personal control will be given to the owners of establishments to decorate, interest clients, market products, and establish decor which should be the right of owners who depend on a business to make a living in a very competitive market. Government control of this type serves nothing but to make enforcement more expensive on taxpayers and reduce the rights of business professionals. As long as local building and safety codes are met, this area should be opened up to all types of display including neon lighting and clay reproductions as examples. (2) Insofar as the regulation concerning art work, this regulation leaves the subject open to opinion which will vary from one person to another. This can have great financial impact on products purchased as art for display when A.B.C. decides these products are not "works of art." This again is over regulation on the part of the government and should be clarified.

d. Issues: (1) Usage of neon illuminated alcoholic beverage advertising inside licensed retail establishments; and (2) clarification of the term "works of art."

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-60(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Paul Roxenberg, President of Paul Roxy Inc. t/a Graphic Neon.

5. VR 125-01-2 § 2. Advertising; interior; retail licensees; show windows.

a. Subject of Proposal: (1) To repeal all interior advertising requirements for alcoholic beverage advertising including size, material, mechanical and illumination limitations, as long as alcoholic beverage advertising is purchased at the normal wholesale price and is not displayed so that it can be seen from the exterior of the premises. Retail licensees may purchase alcoholic beverage advertising and service items, from any source, including manufacturers and wholesalers; (2) to permit retail licensees to advertise any brand of alcoholic beverages inside their licensed establishments; (3) to repeal subsection C which restates § 4-79.1; and (4) to move subsection D on show windows to § 3, exterior advertising.

b. Entities Affected: A.B.C., manufacturers, wholesalers, retailers and the public.

c. Purpose of Proposal: (1) and (2) To make interior advertising less restrictive; (3) to repeal a subsection which restates statute; and (4) to move show window advertising under § 3, exterior advertising, because it faces the exterior rather than the interior of a licensed establishment.

d. Issues: (1) and (2) less restrictive interior advertising requirements for alcoholic beverages; (3) the repeal of subsection C which restates the tie house statute; and (4) under what section should show windows be placed - § 2 (interior advertising) or § 3 (exterior advertising).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w), 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

6. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: (1) To allow vehicles with alcoholic beverage advertising to appear in parades and promotions; (2) to permit billboard advertising within stadiums or coliseums who have professional or semiprofessional athletic events; (3) to allow the terms "bar," "bar room," "saloon" and "speakeasy" to be used on exterior advertising if these terms are part of the licensee's trade name; (4) to clarify that an exterior sign may contain only one reference to the words and terms appearing on the face of the license; and (5) to create a new subsection for show windows which is currently under § 2 D of this regulation.

b. Entities Affected: Manufacturers, wholesalers, and retailers.

c. Purpose of Proposal: (1) To permit vehicles with alcoholic beverage advertising, which are not used exclusively in the business of a manufacturer or wholesaler, to appear in parades or promotions; (2) to allow billboard advertising within stadiums or coliseums which have professional or semiprofessional athletic events; (3) to allow prohibited terms to be used on exterior signs if they are part of the licensee's trade name; (4) clarification; and (5) to move show window advertising under exterior advertising because it faces the exterior rather than the interior of a licensed establishment.

d. Issues: (1) Allowing vehicles with alcoholic beverage advertising, which are not used exclusively in the business of a manufacturer or wholesaler, to appear in parades or promotions; (2) allowing billboard advertising within stadiums or coliseums; (3) usage of the terms "bar," "bar room," "saloon" and "speakeasy" when they are part of the licensee's trade name; (4) clarification; and (5) under what section should show windows be placed - § 2 (interior advertising) or § 3 (exterior advertising).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

7. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: To allow outdoor (i.e., billboard) advertising for nonalcoholic beers.

b. Entities Affected: Manufacturers, wholesalers, advertisers of nonalcoholic beers and the driving public.

c. Purpose of Proposal: There are two specific reasons why the current regulation warrants changing: (1) radio and television are currently allowed to promote these items and (2) the main reasoning for outdoor advertising's prohibition is that the brewery's logo on the board is regarded as a "subliminal stimulation."

d. Issues: Outdoor (i.e., billboard) advertising of nonalcoholic beer.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Greg Franz, Lamar Advertising Company.

8. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: To allow the word "saloon" to be used on exterior signs for a licensed retail establishment.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: There are currently two Lone Star Steakhouses under construction in the State of Virginia. One of which will be operated by Lone Star Steakhouse of Richmond, Inc., and the other by Lone Star Steakhouse of Virginia Beach, Inc. Except for the prohibition contained in the above referenced section, both restaurants would be operated as "Lone Star Steakhouse and Saloon" rather than "Lone Star Steakhouse." There are currently three Lone Star Steakhouse and Saloon restaurants operating in North Carolina with another under construction. In addition, there are Lone Star Steakhouse and Saloon restaurants under construction in both Delaware and Indiana. It is the company's intention to develop a number of these restaurants throughout the country and it is of great benefit to them to be able to operate under one trade name nationwide regarding customer recognition, and the preparation and purchasing of advertising, paper goods including menus, uniforms and signage.

In addition, it seems that it is discriminatory to allow some license holders to utilize the words "bar" and "tavern" in their trade names and not to allow the use of the word "saloon" in the trade name of other license holders. It is the position of Lone Star Steakhouse of Richmond, Inc., that either all descriptive words of similar import should be allowed, or prohibited, so that all license holders receive equal treatment and to avoid confusion by the public.

d. Issues: Usage of the word "saloon" on exterior signs for a licensed retail establishment.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Lone Star Steakhouse of Richmond, Inc.

9. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: To allow the word "saloon" to be used in print or electronic media when advertising beer, wine and mixed beverages.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: There are currently two Lone Star Steakhouses under construction in the State of Virginia. One of which will be operated by Lone Star Steakhouse of Richmond, Inc., and the

General Notices/Errata

other by Lone Star Steakhouse of Virginia Beach, Inc. Except for the prohibition contained in the above referenced section, both restaurants would be operated as "Lone Star Steakhouse and Saloon" rather than "Lone Star Steakhouse." There are currently three Lone Star Steakhouse and Saloon restaurants operating in North Carolina with another under construction. In addition, there are Lone Star Steakhouse and Saloon restaurants under construction in both Delaware and Indiana. It is the company's intention to develop a number of these restaurants throughout the country and it is of great benefit to them to be able to operate under one trade name nationwide regarding customer recognition, and the preparation and purchasing of advertising, paper goods including menus, uniforms and signage.

In addition, it seems that it is discriminatory to allow some license holders to utilize the words "bar" and "tavern" in their trade names and not to allow the use of the word "saloon" in the trade name of other license holders. It is the position of Lone Star Steakhouse of Richmond, Inc., that either all descriptive words of similar import should be allowed, or prohibited, so that all license holders receive equal treatment and to avoid confusion by the public.

d. Issues: Usage of the word "saloon" when advertising beer, wine and mixed beverages in the print or electronic media.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Lone Star Steakhouse of Richmond, Inc.

10. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: (1) To allow the terms "bar," "bar room," "saloon" and "speakeasy" to be used in print or electronic media if they are part of the licensee's trade name; (2) to clarify subdivision B 2 which allows manufacturers, bottlers and wholesalers to advertise in the trade publications of associations of retail licensees; and (3) to define the term "general circulation" as it relates to publications which are distributed or intended to be distributed primarily to persons under 21 years of age.

b. Entities Affected: Manufacturers, wholesalers, retailers and publications not of general circulation which are distributed primarily to persons under 21 years of age.

c. Purpose of Proposal: (1) To conform with

proposed amendments for VR 125-01-2 § 3 2 b; (2) clarification; and (3) to define "general circulation."

d. Issues: (1) Usage of the terms "bar," "bar room," "saloon" and "speakeasy" in the print or electronic media when they are part of the licensee's trade name; and (2) and (3) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

11. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: To repeal all restrictions on alcoholic beverage advertising in college student publications.

b. Entities Affected: Manufacturers, wholesalers, retailers and college student publications.

c. Purpose of Proposal: To remove illegal constraints on the college press and allow A.B.C. to explore more effective ways of enforcing the minimum drinking age law.

d. Issue: The repeal of all restrictions on alcoholic beverage advertising in college student publications.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Laurel Wissinger, 1990-91 editor of The Breeze, James Madison University.

12. VR 125-01-2 § 5. Advertising; newspaper; magazines, programs; distilled spirits.

a. Subject of Proposal: (1) To amend § 5.1 C requiring "information on contrasting background in no smaller than eight-point size type" to "Any written, printed or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible"; and (2) to repeat the prohibition against statements that refer to "bonded," age and religion.

b. Entities Affected: Manufacturers, importers and wholesalers of distilled spirits.

c. Purpose of Proposal: (1) To delete the eight-point size type; and (2) to repeal the prohibition against statements dealing with "bonded," age and religion.

d. Issues: (1) Deletion of eight-point size type; and (2) repeal of the prohibition against statements that

refer to "bonded," age and religion in distilled spirits advertising in the print media.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

13. VR 125-01-2 § 6. Advertising; novelties and specialties.

a. Subject of Proposal: (1) To increase the wholesale value limit from \$2.00 to \$5.00 on novelty items to be given away; and (2) to increase from one to ten the number of novelty and specialty items that may be given to a retailer and each of his employees.

b. Entities Affected: Manufacturers, importers, brokers, wholesalers and retail licensees.

c. Purpose of Proposal: (1) The increase of the wholesale value of novelties from \$2.00 to \$5.00 would allow for a greater variety of items to be given to the retail licensees at the same time preserving the low monetary value of the item; and (2) the increase in the number of advertising specialties from one to ten per retailer and per employee per visit would provide parity between the retail establishment with one employee and the larger establishments with ten or more employees.

d. Issues: (1) The increase of wholesale value limits on novelty items to be given away; and (2) the increase of the number of items to be given away to a retailer and his employees.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Virginia Distilled Spirits Representatives Association.

14. VR 125-01-2 § 7. Advertising; fairs and trade shows; wine and beer displays.

a. Subject of Proposal: To allow the display of distilled spirits and the distribution of distilled spirits informational brochures and novelty and specialty items at fairs and trade shows.

b. Entities Affected: Manufacturers and wholesalers of distilled spirits.

c. Purpose of Proposal: To allow distilled spirits to be advertised in the same manner that wine and beer are advertised at fairs and trade shows.

d. Issue: Permitting the display of distilled spirits and the distribution of distilled spirits informational brochures and novelty and specialty items at fairs and trade shows.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

15. VR 125-01-2 § 9. Advertising; coupons.

a. Subject of Proposal: (1) To permit off-premises retail licensees to redeem wine and beer coupons; (2) to delete the requirement in subdivision B 4 that "(c)oupons offered by retail licensees shall appear in an advertisement with nonalcoholic merchandise and conform in size and content to the advertising of such merchandise"; and (3) to clarify that a manufacturer or wholesaler may furnish coupons or materials regarding coupons to retailers.

b. Entities Affected: Manufacturers, wholesalers and retailers.

c. Purpose of Proposal: (1) To make it convenient for consumers to redeem alcoholic beverage coupons at the time of purchase rather than requiring consumers to mail their coupons to the manufacturer or its designated agent; (2) to conform with proposed amendments to VR 125-01-2 § 1 F I 8; and (3) clarification.

d. Issues: (1) Redemption of alcoholic beverage coupons by retailers; (2) less restrictive advertising requirements for retail licensee coupons; and (3) clarification.

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

f. Proposed By: Department of Alcoholic Beverage Control.

16. VR 125-01-2 § 10. Advertising; sponsorship of public events; restrictions and conditions.

a. Subject of Proposal: (1) To repeal the prohibition against an entire season of athletic or sporting events, such as a football season; and (2) to delete the word "program" from § 10 B 1 which prohibits the sponsorship of any public event on a college, high school or younger age level.

b. Entities Affected: Manufacturers and wholesalers.

c. Purpose of Proposal: (1) To permit manufacturers of alcoholic beverages to sponsor an entire season of athletic or sporting events; (2) to prevent any confusion concerning the use of the word "program" in § 10 B 1, which is prohibited and in § 10 B 6 which is allowed.

d. Issues: (1) Permitting the sponsorship of an entire

General Notices/Errata

season of athletic and sporting events by manufacturers; and (2) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

17. VR 125-01-3 § 1. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

a. Subject of Proposal: (1) To repeal the prohibition that wholesalers may not merchandise wine and beer on Sundays; (2) to delete the term "malt beverage" and substitute "beer" in § 1 A 5; (3) to allow nationally discontinued products to be replaced by a wholesaler; and (4) to repeal § 1 B 3 f which permits a wholesaler to exchange wine or beer on an identical quantity, brand or package basis for quality control purposes because it is repetitious.

b. Entities Affected: A.B.C., wholesaler and retailers.

c. Purpose of Proposal: (1) To allow wholesalers to decide whether or not they will merchandise wine and beer on Sundays. Currently wholesalers may accept orders for wine and beer and deliver wine and beer to banquet licensees and ships sailing from a port of call outside the Commonwealth on Sundays; (2) to standardize terms used throughout the regulations; (3) to permit wholesalers to replace nationally discontinued products; and (4) to avoid repetition.

d. Issues: (1) The prohibition against wholesalers merchandising wine and beer on Sundays; (2) standardization of terminology; (3) allowing wholesalers to replace nationally discontinued products; and (4) repetition.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-22.1, 4-33(d), 4-37(e), 4-79.1, 4-103(b) and 4-115 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

18. VR 125-01-3 § 2. Manner of compensation of employees of retail licensees.

a. Subject of Proposal: To move § 2 from VR 125-01-3 to VR 125-01-5.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: Section 2, dealing with the manner of compensation that employees of retail licensees may receive from their employers, is not a tied house issue.

d. Issues: Under what regulation should compensation of employees of retail licensees be placed - VR 125-01-3 (Tied House) or VR 125-01-5 (Retail Operations).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.10(t) and 4-103(b) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

19. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: To permit electronic fund transfers.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: To eliminate the requirement that cash or checks for the payment of the purchase of alcoholic beverages be kept on the retail premises. Under the existing regulation, the retailer/purchaser has to grant check-writing authority or provide sufficient cash to permit a manager of retail licensed premises to purchase wine, beer and beverages and such checks and cash are subject to loss or theft while in the hands of the driver/salesman representing the distributor.

d. Issues: Use of electronic fund transfers for payment of alcoholic beverages by retailers to wholesalers.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Rite Aid Corporation.

20. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: To include within the definition of "cash" payments made by retailers via wholesaler-initiated electronic fund transfers for purchases of wine, beer and beverages when such payments are made pursuant to (i) a written agreement between the wholesale and retail licensees and (ii) clearly defined conditions and requirements established by A.B.C.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: Some A.B.C. retail licensees desire to utilize electronic fund transfers as a means of payment to wholesale licensees for purchases of wine, beer or beverages. Current regulations require that payment for such transactions be made in

"cash" which is defined to mean legal tender, money order or checks.

d. Issues: Use of electronic fund transfers for payment of alcoholic beverages by retailers to wholesalers.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Virginia Beer Wholesalers Association, Inc.

21. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: (1) To repeal the requirement for monthly reporting to A.B.C. of all invalid checks received by wholesalers from retail licensees for the payment of wine, beer or beverages; (2) to require wholesalers to report to A.B.C. all invalid checks received from retail licensees for the payment of wine, beer or beverages that are not satisfied within seven days after notice of the invalid check is given to the wholesaler, and to report all retail licensees who have given them a certain number of invalid checks within a specified time period; (3) to require wholesalers to keep records of all invalid checks received from retail licensees for the payment of wine, beer or beverages on their licensed premises; and (4) to amend subsection E to "Licensee payments to the board shall be for cash as defined in subsection B" and to delete § 5 E 1-6.

b. Entities Affected: A.B.C. wholesalers and retailers.

c. Purpose of Proposal: (1), (2) and (3) to prevent regulatory agents from having to investigate every invalid check report including those checks that have been satisfied; and (4) to condense subsection E.

d. Issues: (1) Agent's time spent on investigation of invalid checks; and (2) condensation of subsection E.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

22. VR 125-01-3 § 7. Solicitation of licensees by wine, beer and beverage solicitor salesman or representatives.

a. Subject of Proposal: To clarify that solicitation and promotion of educational programs regarding

distilled spirits and mixed drinks is allowed if a distilled spirits solicitor's permit has been obtained.

b. Entities Affected: Wine, beer and beverage solicitor salesmen.

c. Purpose of Proposal: To clarify that wine, beer and beverage solicitor salesmen may solicit and promote distilled spirits and mixed beverages after first obtaining a distilled spirits solicitor's permit.

d. Issues: Clarification.

e. Applicable Laws: §§ 4-98.14 and 4-98.16 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

23. VR 125-01-3 § 8. Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; paper, cardboard or plastic advertising materials; clip-ons and table tents.

a. Subject of Proposal: (1) to repeal all size requirements for paper, cardboard and plastic advertising materials which are displayed inside licensed retail establishments; and (2) to define the business relationships between manufacturers and wholesalers on the one hand and retailers on the other concerning the sale of nonalcoholic merchandise to retailers by wholesalers and manufacturers.

b. Entities Affected: A.B.C., manufacturers, wholesalers, and retailers.

c. Purpose of Proposal: (1) To conform with proposed amendments for interior advertising (VR 125-01-2 § 2); and (2) to allow manufacturers and wholesalers to engage in activities with retail licensees which are not related to the alcoholic beverage business of the retailer.

d. Issues: (1) Repeal of size restrictions for paper, cardboard and plastic advertising materials displayed inside licensed retail premises; and (2) the definition of business relationship between manufacturers, wholesalers and retailers when dealing with nonalcoholic merchandise.

e. Applicable Laws: §§ 4-11(a), 4-69.2, 4-79(f) and (h) repealed by Acts 1989, and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

24. VR 125-01-5 § 3. Restricted hours; exceptions.

a. Subject of Proposal: To restrict the sale of

General Notices/Errata

alcoholic beverages from 2 a.m. to 6 a.m. for all on-premises licensees and from 1 a.m. to 6 a.m. for all off-premises licensees.

b. Entities Affected: A.B.C. and retailers.

c. Purpose of Proposal: To standardize restricted hours statewide for all licensees.

d. Issue: Increasing the number of hours a licensee may sell alcoholic beverages.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-36, 4-98.14, 4-103(b) and 4-114.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

25. VR 125-01-5 § 8. Entreating, urging or enticing patrons to purchase prohibited.

a. Subject of Proposal: To clarify that alcoholic beverages placed in containers of ice (i.e., "ice beer/wine to go") by off-premises licensees is a violation of this section.

b. Entities Affected: Retailers and the public.

c. Purpose of Proposal: To place retail off-premises licensees on notice that alcoholic beverages placed in containers of ice are an enticement to purchase alcoholic beverages.

d. Issue: The placement of alcoholic beverages in containers of ice near cash registers and doors by off-premises licensees as an enticement to purchase alcoholic beverages.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-69.2, 4-98.14, 4-103(b) and (c) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

26. VR 125-01-5 § 10. Definitions and qualifications for retail off-premises wine and beer licenses and off-premises beer licenses; exceptions; further conditions; temporary licenses.

a. Subject of Proposal: (1) Minimum monthly sales and inventory costs for retail off-premises wine and beer licensees will be decreased to \$2,000 for drugstores and \$1,000 for specialty shops; (2) minimum monthly sales and inventory costs for retail off-premises beer licensees will be decreased to \$1,000 for drugstores and increased to \$1,000 for marina stores; and (3) creation of a category for off-premises wine and beer licenses and beer licenses that does not require minimum monthly food sales.

b. Entities Affected: A.B.C., retailers and the public.

c. Purpose of Proposal: (1) and (2) To standardize monthly sales and inventory costs for most licensees; and (3) to expand the types of businesses eligible for off-premises licensee category that does not require minimum monthly food sales.

d. Issues: (1) and (2) The increase and decrease of minimum monthly sales and inventory costs for retail off-premises licenses; and (3) the creation of an off-premises licensee category that does not require minimum monthly food sales.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-25, and 4-31(a) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

27. VR 125-01-5 § 11. Definitions and qualifications for retail on-premises and on- and off-premises licenses generally; mixed beverage licensee requirements; exceptions; temporary licenses.

a. Subject of Proposal: (1) Minimum monthly sales for retail on- and off-premises wine and beer licenses will be standardized at \$2,000; (2) minimum monthly sales for retail on- and off-premises beer licenses will be standardized at \$2,000; (3) minimum monthly sales for mixed beverage licenses will be decreased to \$4,000; (4) the amount of monthly food sales for mixed beverage licensees which must be in the form of meals with entrees will be decreased to \$2,000; (5) to clarify the definition of "designated room"; (6) to repeal the requirements that (a) the seating area of a designated room shall not exceed the seating area of the required dining room and (b) the seating capacity of such room shall not be included in determining eligibility qualifications; (7) to include the seating capacity of an outside terrace or patio which is used continually during seasonal operation when determining eligibility qualifications; (8) to clarify that the definition of a "table" includes a counter or booth; and (9) to repeal § 11 D 6 b which deals with counters.

b. Entities Affected: Retail on- and off-premises licensees and on-premises licensees.

c. Purpose of Proposal: (1) and (2) To standardize minimum monthly sales for retail on-premises beer licensees and on- and off-premises wine and beer licensees; (3) and (4) to decrease minimum monthly sales and the amount of monthly food sales which must be in the form of meals with entrees for mixed beverage licensees in order to make it easier for small mixed beverage licensees to meet qualifications; (5) clarification; (6) and (7) to make eligibility qualifications less restrictive; and (8) and (9) to allow counters to be considered tables for

meeting the minimum seating requirements.

d. Issues: (1) and (2) The standardization of minimum monthly sales; (3), (4), (6) and (7) less restrictive eligibility qualifications for mixed beverage licenses; (5) clarification; and (8) and (9) less restrictive seating requirements for mixed beverage licensees.

e. Applicable Laws: §§ 4-2(8), 4-7(1), 4-11(a), 4-25, 4-98.2 and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

28. VR 125-01-5 § 13. Clubs; applications; qualifications; reciprocal arrangements; changes; financial statements.

a. Subject of Proposal: (1) To clarify that nonmembers using club premises must be individuals, organizations or groups who qualify for banquet or banquet special events licenses; and (2) to require a club to prepare and keep its financial statement on the licensed premises for three years rather than submitting it annually to A.B.C.

b. Entities Affected: A.B.C. and clubs.

c. Purpose of Proposal: (1) Clarification; and (2) reduction of paperwork required to be filed with A.B.C.

d. Issues: (1) Clarifying nonmember qualifications for using club premises; and (2) requiring financial statements to be kept on club premises for three years rather than requiring annual submission of financial statements to A.B.C.

e. Applicable Laws: §§ 4-2(6), 4-7(1), 4-11(a), 4-61.1, 4-98.2, 4-98.14 and 4-118.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

29. VR 125-01-5 § 17. Caterer's license.

a. Subject of Proposal: To decrease the monthly gross sales average from \$5,000 to \$4,000.

b. Entities Affected: Caterers.

c. Purpose of Proposal: To conform with proposed amendments for qualifications of mixed beverage licensees (VR 125-01-5 § 11).

d. Issue: Decreasing the monthly gross sales average for a caterer.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.2(e), 4-98.7, 4-98.11 and 4-98.18 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

30. VR 125-01-5 § 19. Bed and breakfast licenses.

a. Subject of Proposal: To repeal the minimum number of bedrooms that an establishment must have to qualify for a bed and breakfast license.

b. Entities Affected: Bed and breakfast establishments.

c. Purpose of Proposal: To comply with 1991 statutory changes involving § 4-2 of the Code of Virginia.

d. Issue: Compliance with statutory law.

e. Applicable Laws: §§ 4-2, 4-7(1), 4-11(a), 4-25, 4-33, 4-38, 4-98.14 and 4-103 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

31. VR 125-01-6 § 2. Wines; purchase orders generally; wholesale wine distributors.

a. Subject of Proposal: (1) To repeal the prohibition against peddling wine to retail licensees; and (2) to repeal § 6 B 5 dealing with repossession of wine.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: (1) To allow wholesalers to peddle wine to retail licensees; and (2) to repeal outdated subdivisions.

d. Issues: (1) The peddling of wine by wholesalers; and (2) the repeal of outdated subdivisions.

e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

32. VR 125-01-6 § 6. Wine or beer importer licenses; conditions for issuance and renewal.

a. Subject of Proposal: To comply with 1991 amendments to § 4-25 D of the Code of Virginia.

b. Entities Affected: A.B.C., importers, wholesalers and brand owners of wine and beer imported into the Commonwealth.

c. Purpose of Proposal: To comply with 1991 statutory changes involving §§ 4-25, 4-118.4 and 4-118.43 of the Code of Virginia.

d. Issue: Compliance with statutory law.

General Notices/Errata

- e. Applicable Laws: §§ 4-7(b) and (1), 4-11, 4-2, 4-118.4 and 4-118.43 of the Code of Virginia.
- f. Proposed By: Virginia Beer Wholesalers Association, Inc.
33. VR 125-01-6 § 8. Solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits.
- a. Subject of Proposal: To repeal § 8 C which requires distilled spirits solicitor permittees to keep complete and accurate records of the solicitation of any mixed beverage licensee for two years.
- b. Entities Affected: Distilled spirits solicitor permittees and mixed beverage licensees.
- c. Purpose of Proposal: The original purpose of VR 125-01-6 § 8 C (requiring permittees to keep detailed records of solicitation of any mixed beverage licensee for a period of two years) was to monitor the compliance with the new regulations. Since this purpose has been achieved, the detailed reporting is no longer necessary.
- d. Issue: Detailed record keeping of solicitation of any mixed beverage licensee by distilled spirits solicitor permittees.
- e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.14 and 4-98.16 of the Code of Virginia.
- f. Proposed By: Virginia Distilled Spirits Representatives Association.
34. VR 125-01-6 § 8. Solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits.
- a. Subject of Proposal: To repeal the prohibition against soliciting mixed beverage licensees on Sundays except at conventions, trade association meetings and similar gatherings.
- b. Entities Affected: Distilled spirits solicitor permittees and mixed beverage licensees.
- c. Purpose of Proposal: To allow distilled spirits solicitor permittees to solicit mixed beverage licensees on Sundays.
- d. Issue: The solicitation of mixed beverage licensees on Sundays.
- e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.14 and 4-98.16 of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.
35. VR 125-01-6 § 9. Sunday deliveries by wholesalers prohibited; exceptions.
- a. Subject of Proposal: To repeal § 9.
- b. Entities Affected: A.B.C., wholesalers and retailers.
- c. Purpose of Proposal: To allow wholesalers to deliver wine and beer to retailers on Sundays.
- d. Issue: Sunday delivery of beer and wine to retailers.
- e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-103(b) of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.
36. VR 125-01-7 § 4. Alcoholic beverages for culinary purposes; permits; purchases; restrictions.
- a. Subject of Proposal: (1) To delete the term "dining room" and substitute "an establishment where food is prepared on the premises"; and (2) to allow a culinary permittee, who does not have a license to purchase alcoholic beverages from a wholesaler, to purchase alcoholic beverages from a retailer; however, a culinary permittee who only has a beer license may purchase wine from a retailer.
- b. Entities Affected: Culinary permittees and applicants for culinary permits.
- c. Purpose of Proposal: (1) To allow individuals who do not have a dining room, but prepare food on their business premises, to be eligible for a culinary permit; and (2) to incorporate current policy.
- d. Issues: (1) Expansion of the types of businesses eligible for culinary permits; and (2) incorporation of current policy.
- e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a) and 4-61.2 of the Code of Virginia.
- f. Proposed By: Department of Alcoholic Beverage Control.
37. VR 125-01-7 § 7. Procedures for owners having alcoholic beverages distilled from grain, fruit, fruit products or other substances lawfully grown or produced by such person; permits and limitations thereon.
- a. Subject of Proposal: To clarify that an owner who contracts with a distiller to manufacture distilled spirits from products that the owner has lawfully grown or produced must obtain a board permit before removing the distilled spirits from the distillery's premises.

b. Entities Affected: Owners of distilled spirits manufactured from products that the owners have lawfully grown or produced.

c. Purpose of Proposal: Clarification.

d. Issue: Clarification.

e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a) and 4-89(b) and (e) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

38. VR 125-01-7 § 8. Manufacture, sale, etc., of "sterno," and similar substances for fuel purposes.

a. Subject of Proposal: To repeal § 8.

b. Entities Affected: A.B.C.

c. Purpose of Proposal: To repeal an outdated regulation involving "Sterno," canned heat and similar substances intended for fuel purposes.

d. Issue: The repeal of § 8.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-48 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

39. VR 125-01-7 § 13. Special mixed beverage licenses; location; special privileges; taxes on licenses.

a. Subject of Proposal: To remove the sale of beer and wine from the determination of the 45% food to 55% alcoholic beverage ratio.

b. Entities Affected: Special mixed beverage licensees.

c. Purpose of Proposal: To comply with § 4-98.7 of the Code of Virginia.

d. Issue: Compliance with statutory law.

e. Applicable Laws: §§ 4-98.2, 4-98.14 and 7.1-21.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

40. VR 125-01-7 § 16. Alcoholic Beverage Control Board.

a. Subject of Proposal: To repeal § 16.

b. Entities Affected: A.B.C.

c. Purpose of Proposal: To repeal a regulation

which is a restatement of § 4-6.1 of the Code of Virginia (i.e. Whenever the word "Commission" shall appear and the clear context of the meaning is intended to refer to the A.B.C. Commission, it shall be taken to mean the A.B.C. Board).

d. Issue: The repeal of § 16.

e. Applicable Laws: §§ 4-3 and 4-6.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

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

42. The board requests that all persons interested in the above described subject please submit comments in writing by 10 a.m. June 20, 1991, to the undersigned, P. O. Box 27491, Richmond, Virginia 23261, or attend the public meeting scheduled below. Comments may also be faxed to (804) 367-8249 (if the original paperwork is also mailed).

43. The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia, at 10 a.m. on June 20, 1991.

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

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

Virginia Alcoholic Beverage Control Board

Robert N. Swinson
Secretary

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98-14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Written comments may be submitted until 10 a.m. on June 20, 1991.

General Notices/Errata

Contact: Robert N. Swinson, Secretary to the Board, P. O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider amending regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, adjustment of examination fees; establishment of a nail technician licensing program; and establishment of an esthetician licensing program.

Statutory Authority: §§ 54.1-201(5) and 54.1-113 the Code of Virginia.

Written comments may be submitted until July 7, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

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 Board of Health intends to consider amending regulations entitled: **VR 355-01-01. Public Participation Guidelines.** The purpose of the proposed action is to provide consistent, written guidelines in order to ensure input from interested parties at all stages of the regulatory process.

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

Written comments may be submitted until June 3, 1991.

Contact: Susan R. Rowland, Assistant to the Commissioner, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3561.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed action is to amend the existing Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations so that the regulations are consistent with the amended law.

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

Written comments may be submitted until April 23, 1991.

Contact: Wendy V. Brown, Acting Director, Division of Resources Development, Virginia Department of Health, 1500 East Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-7463.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-33-05. Rules and Regulations for the Licensure of Hospitals in Virginia.** The purpose of the proposed action is to promulgate new licensure requirements governing the provision of obstetric and newborn services in hospitals licensed by the Virginia Department of Health. The existing hospital regulations are to be either amended or repealed.

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

Written comments may be submitted until May 27, 1991.

Contact: Stephanie A. Sivert, Assistant Director, Acute Care Services, Division of Licensure and Certification, 3600 Centre, 3600 W. Broad St., Suite 216, Richmond, VA 23230 telephone (804) 367-2104.

DEPARTMENT OF LABOR AND INDUSTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **VR 425-01-80. Virginia Hours of Work for Minors.** The purpose of the proposed regulation is to regulate the maximum number of hours per week, the maximum hours per day, and the hours during the day that minors under age 16 may work.

Statutory Authority: §§ 40.1-6(3) and 40.1-80.1 of the Code of Virginia.

Written comments may be submitted until June 24, 1991.

Contact: John J. Crisanti, Director, Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241-0064, telephone (804) 786-2384.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **VR 425-01-81. Employment of Minor**

On Farms, in Gardens and in Orchards. The purpose of the proposed regulation is to regulate certain child labor in the agricultural industry.

Statutory Authority: §§ 40.1-6(3), 40.1-100(A)(9), and 40.1-114 of the Code of Virginia.

Written comments may be submitted until June 24, 1991.

Contact: John J. Crisanti, Director, Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241-0064, telephone (804) 786-2384.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-4.1930. Medicaid Payment for Reserving Nursing Home Bed for Hospitalized Patient: Elimination of Bed Hold Days.** The purpose of the proposed action is to promulgate permanent regulations to supersede emergency regulations providing for this policy.

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

Written comments may be submitted until June 3, 1991.

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

† 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 465-09-01. Certification of Optometrists to Prescribe for and Treat Certain Diseases including Abnormal Conditions of Human Eye and its Adnexa with Certain Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to amend §§ 2.1 (3) and 6.1 to provide alternative pathways for graduates of optometric training to be eligible to sit for the certification examination to treat ocular diseases with therapeutic pharmaceutical agents.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 19, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director,

1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

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

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-01. Mandatory Standards for Community Mental Health Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-02. Mandatory Standards for Community Programs for the Mentally Retarded.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-05-01. Mandatory Standards for Community Substance Abuse Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

General Notices/Errata

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

DEPARTMENT OF MOTOR VEHICLES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider repealing existing regulations entitled **VR 485-10-8401. Public Participation Guidelines** and to promulgate new regulations entitled **Public Participation Guidelines for Regulation Development and Promulgation**. The purpose of the proposed action is to establish guidelines for receiving input and participation from interested citizens in the development of any regulations which the department proposes.

Statutory Authority: § 46.2-203 of the Code of Virginia.

Written comments may be submitted until June 30, 1991, to Nancy G. LaGow, P.O. Box 27412, Richmond, Virginia 23269.

Contact: Bruce Gould, Planning Supervisor, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0453.

DEPARTMENT OF PERSONNEL AND TRAINING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Personnel and Training intends to consider promulgating regulations entitled: **VR 525-01-01. Public Participation Guidelines**. The purpose of the proposed action is to publish guidelines for public participation in the development of regulations.

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

Written comments may be submitted until June 14, 1991.

Contact: Audrey M. Harris, Legislative Liaison, Department of Personnel and Training, James Monroe Building, 12th Floor, Richmond, VA 23219, telephone (804) 225-2131.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances**. The purpose of the proposed action is to establish a permanent fee for initial licensure of practitioners of the healing arts to sell controlled substances. The present fee was established pursuant to an emergency regulation which will expire on September 18, 1991.

Statutory Authority: §§ 54.1-2400 and 54.1-3303 of the Code of Virginia.

Written comments may be submitted until June 11, 1991.

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

REAL ESTATE APPRAISER BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider promulgating regulations entitled: **VR 583-01-01. Real Estate Appraiser Board Public Participation Guidelines**. The purpose of the proposed action is to establish guidelines for the solicitation of public comment in the development of regulations by the Real Estate Appraiser Board.

You may refer to Real Estate Appraiser Board Emergency Public Participation Guidelines, promulgated October 31, 1990, for comment.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until May 22, 1991.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2175.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider promulgating regulations entitled: **VR 583-01-02. Real Estate Appraiser Board Regulations**. The purpose of the proposed action is to establish final regulations regarding qualifications for the licensure of real estate appraisers and standards of practice for licensed appraisers.

You may refer to the current Real Estate Appraiser Board Emergency Regulations promulgated March 14, 1991, for comment.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until May 22, 1991.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2175.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **Administrative Disqualification Hearings for the Food Stamp Program**. The purpose of the proposed action is to implement § 63.1-124.23 of the Code of Virginia and federal regulations at 7 CFR 273.16, to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred.

Statutory Authority: § 63.1-25.2 of the Code of Virginia.

Written comments may be submitted until June 19, 1991, to Burt Richman, FSP Manager, VDSS, 8007 Discovery Drive, Richmond, Virginia.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-70-17. Child Support Enforcement Program**. The purpose of the proposed action is response to legislative action by the General Assembly in 1991, in anticipation of new federal child support regulations, and in response to the need for other programmatic changes, the department will develop rules to:

1. Define under what conditions the department shall release information to absent responsible parents and custodial parents involved in administrative proceedings regarding the child support enforcement program;
2. Define the conditions under which the department shall not administratively issue an immediate wage withholding at the time the administrative support order is issued (good cause);
3. Define the frequency and conditions under which the department shall review and modify child support obligations;

4. Define debt to the state and child support arrears;

5. Clarify that Medicaid-only clients are not required to cooperate with the child support enforcement program as a condition of eligibility for Medicaid-only services;

6. Define under what conditions both parents are responsible for the Aid to Dependent Children (ADC) debt;

7. Clarify that administrative obligation includes the provision of health care coverage and define the conditions under which the absent responsible parent will not be required to provide health care coverage, and

8. Revise the section of the regulation covering payment recovery when a payment made by an employer or absent responsible parent is not honored upon presentation to the bank upon which it was drawn and when the department sends the custodial parent a payment in error.

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

Written comments may be submitted until May 22, 1991, to Jarnice Johnson, Division of Child Support Enforcement, 8007 Discovery Drive, Blair Building, Richmond, Virginia.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, Office of Governmental Affairs, 8007 Discovery Drive, Blair Building, Richmond, VA 23229-8699, telephone (804) 662-9217.

GENERAL NOTICES

DEPARTMENT OF LABOR AND INDUSTRY

† Public Notice

The Safety and Health Codes Board adopted the following Federal OSHA Standards at its meeting on April 16, 1991:

1. Extension of Administrative Stay to the General Industry Standard for Occupational Exposure to Formaldehyde, § 1910.1048(m) (1) (i) through (m) (ii).

Effective date is April 17, 1991.

2. Amendment to the General Industry Standard for the Control of Hazardous Energy Sources - (Lockout/Tagout), Final Rule, § 1910.147; and Technical Corrections.

Effective date is July 1, 1991.

3. Safety Standards for Stairways and Ladders Used in the Construction Industry, Final Rule, §§ 1926.1050 through

General Notices/Errata

1926.1060.

Effective date is July 1, 1991.

The Safety and Health Codes Board also adopted the following standard at its April 16, 1991 meeting:

Amendment to the Boiler and Pressure Vessel Rules and Regulations, Final Rule.

Effective date is July 1, 1991.

Contact: John J. Crisanti, Director of Office of Enforcement Policy, telephone (804) 786-2384.

† Public Notice

Extension of Administrative Stay to the General Industry Standard: Occupational Exposure to Formaldehyde.

On April 16, 1991, the Virginia Safety and Health Codes Board adopted an additional extension of the administrative stay for the Occupational Exposure to Formaldehyde - § 1910.1048(m) (1) (i) through (m) (4) (ii); as published in the Federal Register on March 12, 1991 (56 Fed. Reg. 10377).

The effective date of the stay is April 17, 1991, and it will remain in effect through June 9, 1991.

The change extends the administrative stay of §§ 1910.1048(m) (1) (i) through (m) (4) (ii), which are the Hazard Communication provisions of the Formaldehyde Standard. The purpose of the Federal stay is to allow Federal OSHA to conduct rulemaking on the issue.

During the period of the Stay, employers must continue to comply with the provisions of the Hazard Communication Standard.

DIVISION OF LEGISLATIVE SERVICES

† Public Notice

The next issue of The Legislative Record, summarizing May meetings of legislative study commissions and joint subcommittees, will be published in early June. Because of a dearth of such meetings in April, the May issue will not be published.

NOTICES TO STATE AGENCIES

CHANGE OF ADDRESS: Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed in copy. Our FAX number is: 371-0169.

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

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.

Publication: 7:16 VA.R. 2337-2347 May 6, 1991

Correction to Proposed Regulation:

Page 2342, second column, seventh paragraph should read:

“ Roads and driveways not exempt under subdivision 1 of subsection B of § 4.5 of these regulations may be constructed in or across Resource Protection Areas if each of the following conditions is met: “

Page 2344, first column, § 4.5.B.1.b, second line should read:

“...public roads as defined in § 1.4 of these...”

Page 2346, first column, eighth paragraph should read:

“(7) Potential water quality improvement through the redevelopment of Intensely Developed Areas.”

STATE LOTTERY DEPARTMENT

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

Publication: 7:13 V.A.R. 2004-2017 March 25, 1990

Correction to the Final Regulation:

Page 2030, first column, § 3.37, first paragraph should read:

“The department shall validate the winning ticket claim according to procedures contained in these regulations as follows:

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 FOR THE AGING

June 4, 1991 - 10 a.m. – Public Hearing
Southwest Virginia Community College, Russell Hall Auditorium, Richlands, Virginia

June 5, 1991 - 10 a.m. – Public Hearing
Melrose Towers, 3038 Melrose Avenue NW, Roanoke, Virginia

June 12, 1991 - 10 a.m. – Public Hearing
Richard Bland College, 11301 Johnson Road, Petersburg, Virginia

June 13, 1991 - 10 a.m. – Public Hearing
Norfolk State University, 2401 Corprew Avenue, Norfolk, Virginia

June 26, 1991 - 10 a.m. – Public Hearing
The Massey Building, 4100 Chain Bridge Road, Fairfax, Virginia

A meeting to accept comments on the proposed State Plan for Aging Services developed pursuant to Title III of the Older Americans Act, as amended. Interested persons may submit data, views, and arguments, either orally or in writing, to the Department.

To receive a copy of the proposed State Plan and to obtain further information, write to or call the Department for the Aging.

See the General Notices section for additional information.

Contact: William H. McElveen, Deputy Commissioner, Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327, (804) 225-2271 or toll-free in Virginia 1-800-552-0446.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

May 23, 1991 - 9 a.m. – Open Meeting
Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. ♿

A regular meeting of the board to review issues relating to regulations and fiscal matters and to receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. The final item for the meeting will be opportunity for the public to make comment to the board, pursuant to § 2.1-343 of the Code of Virginia, with time reserved for this purpose not to exceed 30 minutes.

Contact: Roy E. Seward, Secretary to the Board, VDACS, Room 210, Washington Building, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3501 or (804) 371-6344/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

May 23, 1991 - 1 p.m. – Public Hearing
Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.**

Statutory Authority: § 3.1-926 of the Code of Virginia.

Written comments may be submitted until April 29, 1991.

Contact: J. Alan Rogers, Bureau Chief, Weights and Measures Bureau, Washington Bldg., Room 402, 1100 Bank St., P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-2476.

STATE AIR POLLUTION CONTROL BOARD

23454, telephone (703) 783-7771.

† June 7, 1991 - 9 a.m. - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

A meeting to consider proposed air toxics regulations and will participate in a work session on best available control technologies. Agendas will be available two weeks before the meeting.

Contact: Kathleen Sands, Staff-Board Liaison, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

BOARD FOR ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS

† June 6, 1991 - 9 a.m. - Open Meeting
Sheraton Inn Virginia Beach, Oceanfront at 36th Street, Virginia Beach, Virginia. ☒

A meeting to (i) approve minutes from the March 14, 1991, meeting; (ii) review correspondence; and (iii) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VIRGINIA COMMISSION FOR THE ARTS

May 23, 1991 - 9 a.m. - Open Meeting
Dutch Inn Hotel and Convention Center, 633 Virginia Avenue, U.S. 220 North, Collinsville, Virginia. ☒

VCA quarterly business meeting.

Contact: Wanda Smith, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219-2010, telephone (804) 225-3132.

ASAP POLICY BOARD - MOUNT ROGERS

Board of Directors

† June 5, 1991 - 1 p.m. - Open Meeting
Oby's Restaurant, Marion, Virginia. ☒ (Interpreter for deaf provided upon request)

A bi-monthly business meeting to conduct business as follows: (i) call to order; (ii) roll call; (iii) approval of minutes; (iv) unfinished business; (v) new business; and (vi) adjournment.

Contact: J. L. Reedy, Jr., Director, Mount Rogers Alcohol Safety Action Program, 1102 N. Main St., Marion, VA

ASAP POLICY BOARD - OLD DOMINION

May 21, 1991 - 6:30 p.m. - Open Meeting
Wayside Inn, 7783 Main Street, Middletown, Virginia. ☒

A meeting for the purpose of (i) introduction of new members; (ii) introduction of staff to new members; (iii) approval of minutes; (iv) discussing by-laws amendment; and (v) considering any new business, including the director's report (statistics). BBContact: Joseph A. Walker, Director, 112 S. Cameron St., Winchester, VA 22601, telephone (703) 665-5633.

ATHLETIC BOARD

June 28, 1991 - 10 a.m. - Open Meeting
3600 West Broad Street, Richmond, Virginia.

Annual meeting of the Virginia Athletic Board. Discussion of regulations pertaining to conduct of bout and license fees. BBContact: Doug Beavers, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507.

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

May 23, 1991 - 10 a.m. - Open Meeting
1601 Rolling Hills Drive, 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.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 20, 1991 - 10 a.m. - Public Hearing
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to amend regulations entitled: **VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.** This proposed regulation provides criteria for the identification, designation, and management of Chesapeake Bay Preservation Areas, clarifying the definition of public roads, changing the time limit for completion of some components of local programs, and substituting the date October 1, 1989, for the term "Effective Date."

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code

Calendar of Events

of Virginia.

Written comments may be submitted until July 5, 1991.

Contact: Scott Crafton, Chesapeake Bay Local Assistance Department, Room 701, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-7503 or toll-free 1-800-243-7229.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

June 21, 1991 - 8:30 a.m. – Open Meeting

July 19, 1991 - 8:30 a.m. – Open Meeting

Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

BOARD OF COMMERCE

† **May 20, 1991 - 10 a.m. – Open Meeting**

Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss conclusions and recommendations for studies conducted on the following regulatory programs: (i) Interior Designers; (ii) Rental Location Agents; (iii) Soil Scientists; (iv) Landscape Architects; (v) Polygraph Examiners; and (vi) Geologists.

Contact: Alvin Whitley, Public Affairs Officer/Policy Analyst, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8567 or SCATS 367-8519.

COMPENSATION BOARD

May 30, 1991 - 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 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 ☒

BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

June 12, 1991 - 10:30 a.m. – Open Meeting

Virginia Institute of Marine Science, Director's Conference Room. ☒

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Jack E. Frye, Shoreline Programs Bureau Manager, Shoreline Programs Bureau, P.O. Box 1024, Gloucester Point, VA 23062, telephone (804) 642-7121 or SCATS 842-7121.

DEPARTMENT OF CONSERVATION AND RECREATION

Rappahannock Scenic River Advisory Board

† **May 21, 1991 - 7:30 p.m. – Open Meeting**

C. M. Bradley Elementary School, Warrenton, Virginia.

A review of river issues and programs.

Contact: Richard Gibbons, Environmental Programs Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) (804) 786-4132 or 786-2121/TDD ☒ 367-8514.

Recreation in the Juvenile Justice System

† **June 7, 1991 - 10 a.m. – Open Meeting**

Peaks of Otter Lodge, Bedford, Virginia.

A meeting to review progress on project.

Contact: Patricia H. Helms, Recreation Specialist, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 371-0348 or 786-2121/TDD ☒

BOARD FOR CONTRACTORS

Complaints Committee

May 22, 1991 - 9 a.m. – Open Meeting

3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

A meeting to review and consider complaints filed by consumers against licensed contractors.

Contact: A. R. Wade, Complaints Administrator, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8585.

Recovery Fund Committee

† **June 18, 1991 - 9 a.m.** – Open Meeting
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to consider claims filed against Virginia Contractor Transaction Recovery Fund. A portion of the discussion may be conducted in Executive Session.

Contact: Vickie Brock, Recovery Fund Administrator, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2394.

BOARD OF CORRECTIONS

May 22, 1991 - 10 a.m. – Open Meeting
June 19, 1991 - 10 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented.

Contact: Ms. Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

May 23, 1991 - 9:30 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

The committee will meet to address criminal justice issues.

Contact: Louis E. Barber, Sheriff, Montgomery County, P.O. Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

DEPARTMENTS OF EDUCATION, MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

June 7, 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 Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services intends to amend regulations entitled: **VR 270-01-003, VR 470-02-01, VR 615-29-02, VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** This regulation is designed to assure adequate care, treatment, and education are provided by residential facilities for children. The proposed revisions amend

and clarify requirements governing management of resident behavior.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10, and 66-24 of the Code of Virginia.

Written comments may be submitted until June 7, 1991, to Rhonda G. Merhout-Harrell, Office of Interdepartmental Regulation, 8007 Discovery Drive, Richmond, Virginia.

Contact: John J. Allen, Coordinator, Office of Coordinator, Interdepartmental Regulation, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-7124.

BOARD OF EDUCATION

May 30, 1991 - 8 a.m. – Open Meeting
May 31, 1991 - 9 a.m. – Open Meeting
General Assembly Building, 910 Capitol Street, House Room D, First Floor, Richmond, Virginia. ☒

The Board of Education and Board of Vocational Education will hold a regularly scheduled meeting to conduct business according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Margaret Roberts, Executive Director Board of Education, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

VIRGINIA EGG BOARD

† **June 28, 1991 - 4 p.m.** – Open Meeting
Royal Princess Hotel, 91st Street, Ocean City, Maryland.

A meeting to discuss general business and financial matters pertaining to the egg board.

Contact: Cecilia Glembocki, Program Director, 911 Saddleback Court, McLean, VA 22102, telephone (703) 433-2451.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

June 6, 1991 - 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, Room 502, 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 Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

May 20, 1991 - 1:30 p.m. - Open Meeting
June 17, 1991 - 1:30 p.m. - Open Meeting
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 335-6800.

LOCAL EMERGENCY PLANNING COMMITTEE - RICHMOND

† May 23, 1991 - 1 p.m. - Open Meeting
Engine Company No. 13, 411 East Commerce Road,
Richmond, Virginia. ☒

A meeting to discuss recent developments and planning pertaining to the R.E.P.C. Committee.

Contact: T. E. Price, Captain CEHMC, 501 N. 9th St., Room 134, Richmond, VA 23219, telephone (804) 780-6660.

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

May 20, 1991 - 10:30 a.m. - Open Meeting
The Richmond Radisson Hotel, 555 East Canal Street,
Richmond, Virginia. ☒

A general meeting of the council.

Contact: Abria M. Singleton, Executive Secretary, 4615 W. Broad St., The Commonwealth Building, Third Fl., Richmond, VA 23230, telephone (804) 367-9816.

HAZARDOUS MATERIALS TRAINING COMMITTEE

† May 28, 1991 - 10 a.m. - Open Meeting
Division of Emergency Medical Services, 1538 East
Parham Road, Richmond, Virginia.

A meeting to discuss curriculum course development and review existing hazardous material courses.

Contact: N. Paige Bishop, Henrico County Fire Training Bureau, 10771 Old Washington Highway, Glen Allen, VA 23060, telephone (804) 264-2423.

STATE BOARD OF HEALTH

† June 20, 1991 - 10 a.m. - Open Meeting
Virginia Commonwealth University, University Center, 101 North Harrison Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session will be held. At 7:30 p.m. there will be an informal dinner at the Radisson Hotel.

† June 21, 1991 - 9 a.m. - Open Meeting
Stuart Circle Hospital, 413 Stuart Circle, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Susan R. Rowland, Policy Analyst Senior, Virginia Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 786-3561.

DEPARTMENT OF HEALTH PROFESSIONS

Task Force on the Need for Medication Technicians

† June 20, 1991 - 2 p.m. - Public Hearing
State Capitol, House Room 1, Richmond, Virginia. ☒

An informational public hearing on the study of the need for and qualifications of medication technicians in long-term and other health care facilities.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918.

BOARD OF HEALTH PROFESSIONS

Administration and Budget Committee

† June 19, 1991 - 10 a.m. - Open Meeting
Department of Health Professions, Conference Room 2,
1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review the department's budget for 92-94 biennium.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918.

Task Force on Managed Health Care

† May 23, 1991 - 2 p.m. - Open Meeting
Department of Health Professions, Conference Room 1,
1601 Rolling Hills Drive, Richmond, Virginia. ☒

An organizational meeting in response to HJR No. 390 (1991) to approve a workplan and review background

materials related to the effects of managed health care on health care cost, quality and access. The study includes a focus on standards and ethics in managed health care and health care utilization review. Public comments will be accepted at 4 p.m.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

May 21, 1991 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield of Virginia, The Virginia Room,
2015 Staples Mill Road, 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.

* * * * *

† **July 23, 1991 - noon – Public Hearing**
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia.

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 of the Virginia Health Services Cost Review Council.** The proposed amendments deal with the Annual Charge Survey conducted by the council. The anticipated charges will reflect more accurately what information will be collected from nursing homes and hospitals. The amendments also clarify that health care institutions which are part of continuing care retirement centers, have licensed home for adult beds, or have licensed nursing home beds as part of a hospital, must segregate the patient care activities provided in its nursing home components from its nonpatient care activities when completing the report forms required by council.

STATEMENT

Basis and authority: Section 9-164(2) of the Code of Virginia provides that the Council shall "from time to time make such rules and regulations as may be necessary to carry out its responsibilities." Section 9-160 requires that the Council will publish and disseminate information relating to health and institutions' cost and charges. Section 9-158(C) states "the Council, where appropriate, shall provide for modification consistent with the purposes of this chapter, of reporting requirements to reflect correctly these differences among health care institutions

and to avoid otherwise unduly burdensome costs in meeting the requirements of the uniform system of financial reporting."

Purpose: The proposed changes would amend and update the regulation which deals with the annual charge survey conducted by the Virginia Health Services Cost Review Council. The proposed changes would reflect more accurately what information is to be collected from nursing homes and from hospitals. The proposed change would require health care institutions as defined by § 9-156 of the Code of Virginia that are part of continuing care retirement centers, have licensed home for adult beds, or have licensed nursing home beds as part of a hospital, must segregate the patient care activities provided in its nursing home component from its nonpatient care activities when completing the report forms required by the council.

Estimated impact: The proposed changes will reflect more accurately what information is now being attained by the council from hospitals and nursing homes. There should be no additional cost for health care institutions to properly report this information. The proposed changes will also provide equitable treatment to all facilities reporting to the Virginia Health Services Cost Review Council. The additional cost to properly report this new information will be minuscule in that a process will be developed to use the cost allocations from the Medicaid Cost Reports and the preparation of the council's historical budgetary forms.

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Written comments may be submitted until July 20, 1991.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

STATE COUNCIL OF HIGHER EDUCATION

June 5, 1991 - 9 a.m. – Open Meeting
State Council of Higher Education, Conference Room, 9th Floor, Monroe Building, Richmond, Virginia. ☐

A general business meeting. For more information contact council.

Contact: Barry Dorsey, Deputy Director, 101 N. 14th St., 9th Fl., Monroe Building, Richmond, VA 23219, telephone (804) 225-2632.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

June 4 1991 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☐ (Interpreter for deaf provided upon request)

Calendar of Events

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.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

May 29, 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 Housing and Community Development intends to amend regulations entitled: **VR 394-01-104. Congregate Housing Program Guidelines.** The proposed amendments revise program guidelines to Congregate Housing Program.

Statutory Authority: § 36-141 et seq. of the Code of Virginia.

Written comments may be submitted until May 29, 1991.

Contact: Valerie Moore, Program Administrator, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-7891.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Board of Commissioners

May 21, 1991 - 11 a.m. – Open Meeting
601 South Belvidere Street, Richmond, Virginia. ☐

A meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board 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.

VIRGINIA STATE LIBRARY AND ARCHIVES (LIBRARY BOARD)

† **June 18, 1991 - 10 a.m.** – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol

Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.** The amendments update requirements that microfilm of public archival records meet various criteria to ensure the film's permanent retention.

STATEMENT

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

* * * * *

† **June 18, 1991 - 10 a.m.** – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.** The amendments update requirements that microfilms produced in a procedural microfilm process meet various criteria to ensure the film's permanent retention.

STATEMENT

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† June 18, 1991 - 10 a.m. - Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases of the Clerks of the Circuit Courts Prior to Disposition.** The amendments update requirements that microfilm of ended cases in circuit court meet various criteria to ensure the film's permanent retention.

STATEMENT

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† June 18, 1991 - 10 a.m. - Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.** The amendments update requirements that COM of public records meets various criteria to ensure the film's permanent retention.

STATEMENT

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for producing archival film of permanent and vital records of the Commonwealth. The revisions pose no additional impact to state agencies, local government entities, or the public.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† June 18, 1991 - 10 a.m. - Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.6. Standards for Plats.** The amendments update criteria for plats which are to be recorded in the circuit court clerk's office.

STATEMENT

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for plats submitted for recordation in the circuit court clerk's office. The revisions pose no additional impact to state agencies, local government entities, or the public.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† June 18, 1991 - 10 a.m. - Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

Calendar of Events

of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.7. Standards for Recorded Instruments.** The amendments update criteria for instruments to be recorded in the circuit court clerk's office.

STATEMENT

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. The revisions of the current standard update referenced standards, clarify some items and simplify sections of the 1986 version. They update criteria for recorded instruments submitted for recordation in the circuit court clerk's office. The revisions pose no additional impact to state agencies, local government entities, or the public.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

* * * * *

† **June 18, 1991 - 10 a.m. – Public Hearing**
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to adopt regulations entitled: **VR 440-01-137.8. Standards for Paper for Permanent Circuit Court Records.** The purpose of the proposed action is to establish criteria for the paper to be used for the permanent records stored in the circuit court clerk's office.

STATEMENT

Pursuant to § 42.1-82 of the Code of Virginia, the Library Board is responsible for issuing regulations/standards which preserve the Commonwealth's archival public records. This standard establishes minimum criteria for the type of paper to be used for permanent records required to be retained in the circuit court clerk's office. This standard should pose no additional impact to state agencies, local government entities, or the public since the cost of this type of paper is not any greater than purchasing what is already required.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804)

786-5579.

COMMISSION ON LOCAL GOVERNMENT

May 29, 1991 - 4 p.m. – Open Meeting
City Council Chambers, Bedford Municipal Building, 215 East Main Street, 2nd Floor, Bedford, Virginia.

A regular meeting to consider such matters as may be presented.

Persons desiring to participate in the Commission's regular meeting and requiring special accommodations or interpreter services should contact the Commission's offices by May 22, 1991.

May 30, 1991 - 7 p.m. – Public Hearing
City of Bedford, County of Bedford area - Site to be determined.

Public hearing regarding the petitions filed by Otterburn Homes, Inc., and Carriage Hill of Virginia, Ltd., requesting that their property within Bedford County be annexed to the City of Bedford.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by May 23, 1991.

May 30, 1991 - 10:30 a.m. – Open Meeting
May 31, 1991 - (if needed) - Time to be announced – Open Meeting
City of Bedford, County of Bedford area - Site to be determined.

Oral presentations regarding the petitions filed by Otterburn Homes, Inc., and Carriage Hill of Virginia, Ltd., requesting that their property within Bedford County be annexed to the City of Bedford.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by May 23, 1991.

July 22, 1991 - 7:30 p.m. – Public Hearing
Town of Orange, Orange County area - Site to be determined.

Public hearing regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by July 15, 1991.

Calendar of Events

July 22, 1991 - 11 a.m. - Open Meeting
July 23, 1991 - 9 a.m. - Open Meeting
July 24, 1991 - (if needed) - Time to Be Announced - Open Meeting
Town of Orange, Orange County area - Site to be determined.

Oral presentations regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by July 15, 1991.

August 19, 1991 - 11 a.m. - Open Meeting
August 20, 1991 - (if needed) - Time to be announced - Open Meeting
City of South Boston, Halifax County - Site to be determined.

Open meeting. Oral presentations regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD by May 23, 1991.

August 20, 1991 - 7 p.m. - Public Hearing
City of South Boston, Halifax County area - Site to be determined.

Public hearing regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD by May 23, 1991.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY BOARD

May 22, 1991 - 10 a.m. - Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

May 28, 1991 - 9:30 a.m. - Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided if requested)

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)

May 24, 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 Medical Assistance Services intends to adopt and amend regulations entitled: **State Plan for Medical Assistance Relating to Long-Stay Acute Care Hospitals. VR 460-02-3.1300, Standards Established and Methods Used to Assure High Quality Care and VR 460-04-8.10, Long-Stay Acute Care Hospitals.** The purpose of the proposed regulation is to regulate the provision of long-stay acute care hospital services.

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

Written comments may be submitted until May 24, 1991.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad

Calendar of Events

St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

* * * * *

May 24, 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-04-8.4. Home and Community Based Waiver Services for Elderly and Disabled Individuals.** These regulations control the provision of personal care (respite, adult day health, and personal care) services in the homes of qualifying recipients.

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

Written comments may be submitted until May 24, 1991, to Chris Prueff, Analyst, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

* * * * *

June 7, 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 Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Occupational/Speech-Language Services and Cost Management Initiatives for PIRS. VR 460-03-3.1100. Amount, Duration, and Scope of Services; VR 460-03-4.1940:1. Nursing Home Payment System; and VR 460-03-4.1943. Cost Reimbursement Limitations.** The proposed amendments would make permanent these three provisions currently existing under emergency regulations: the elimination of cost reimbursement to nursing facilities' licensed in-house pharmacies, limitations of the cost of management services, and reimbursement for occupational and speech/language therapies through nursing facility cost reports.

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

Written comments may be submitted until June 7, 1991, to Wm. R. Blakely, Jr., Director, Division of Cost Settlement and Audit, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad

St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

* * * * *

July 5, 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 Medical Assistance Services intends to adopt regulations entitled: **VR 460-05-3000. Drug Utilization Review in Nursing Facilities.** This program proposes to control the use of drugs by nursing facility residents to reduce inappropriate and perhaps hazardous drug use.

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

Written comments may be submitted until July 5, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

* * * * *

† **July 19, 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1102. Case Management for Mental Retardation Waiver Clients.** This action proposes to regulate the provision of case management services to mentally retarded persons who are receiving community based services.

STATEMENT

Basis and Authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

Chapter 972 of the Code of Virginia directs DMHMRSAS and DMAS to provide Medicaid coverage for community mental retardation services including case manager

services.

Purpose: The purpose of this proposal is to promulgate permanent regulations providing for the coverage of case management services for mentally retarded persons to supersede the current emergency regulations.

Summary and Analysis: The 1990 Appropriations Act (Item 466) directed the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and the Department of Medical Assistance Services (DMAS) to provide Medicaid coverage for community mental health, mental retardation, and substance abuse services in Virginia. As a part of this initiative, DMAS was instructed to seek a waiver to offer home and community-based services to deinstitutionalize and divert mentally retarded individuals from more costly institutional care into community care. This action enables the Commonwealth to realize cost savings and provide services in less restrictive environments which promote more individual growth and development.

Virginia has received approval from the Health Care Financing Administration (HCFA) for two waivers under § 1915(c) of the Social Security Act. Waiver I is for services to individuals in institutions for the mentally retarded or who are at risk of institutionalization and can be cared for in the community. Waiver II is targeted to individuals who currently reside in nursing homes but who require active treatment for mental retardation.

One of the services included in each of the waiver requests was targeted case management for clients approved to participate in one of the waivers. During the official review of the waiver proposals, HCFA staff requested that the coverage of case management services be removed from the waiver proposals and submitted instead as a State Plan optional service. The current emergency regulation satisfies the direction given to the agency by the General Assembly that case management services be provided to participants in the two community-based waiver programs for the mentally retarded.

Impact: DMAS expects the waivers to be adequately funded by a combination of General Funds transferred from DMHMRSAS and \$787,500 in FY 91 and \$3,150,000 in FY 92 (GF) appropriated to DMAS and federal matching dollars.

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

Written comments may be submitted until July 19, 1991, to Ann Cook, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

BOARD OF MEDICINE

June 6, 1991 - 8 a.m. - Open Meeting
June 7, 1991 - 8 a.m. - Open Meeting
June 8, 1991 - 8 a.m. - Open Meeting
June 9, 1991 - 8 a.m. - Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

June 6 - An open session to conduct general board business and discuss any other items which may come before the board.

June 7, 8 and 9 - The board will meet to review reports, interview licensees and make decisions on discipline matters.

Public comments will be received at the conclusion of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

June 24, 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 Medicine intends to adopt regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** These amendments pertain to Licensure by examination; examination, general; Licensure by endorsement; and Fees required by the board.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 24, 1991, to Hilary H. Connor, M.D., Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

June 24, 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 Medicine intends to adopt regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The purpose of the proposed amendments is to establish education and training requirements for foreign-trained physical therapist assistants, redefine

This page is
blank in printed
Register

Southwest Virginia 4-H Center, Dickenson, Conference Center, Route 609, Hillman Highway, Abingdon, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Gas and Oil Board intends to adopt regulations entitled: **VR 480-05-22.2. Virginia Gas and Oil Board Regulations.** The proposed regulations will govern conservation of gas and oil resources and protection of correlative rights of gas and oil owners.

STATEMENT

Basis: This regulation is being promulgated pursuant to § 45.1-361.15 of the Code of Virginia.

Purpose: This regulation will allow the Virginia Gas and Oil Board to execute its duties under the Virginia Gas and Oil Act of 1990. The regulation is designed to:

1. Foster, encourage and promote the safe and efficient exploration for and development, production and conservation of the gas and oil resources located in the Commonwealth;
2. Administer a method of gas and oil conservation for the purpose of maximizing exploration, development, production and utilization of gas and oil resources;
3. Administer procedures for the recognition and protection of the rights of gas or oil owners with interests in gas or oil resources contained within a pool;
4. Promote the maximum production and recovery of coal without substantially affecting the right of a gas owner proposing a gas well to explore for and produce gas; and
5. Hear and decide appeals of administrative decisions and orders issued under Article 3 of the Act.

Substance: The proposed regulation will set standards for:

1. Applying for field rules and drilling units to provide for efficient production of the Commonwealth's gas and oil resources while drilling the minimum necessary number of wells;
2. Pooling, or grouping together, the interests of gas or oil owners around a well to provide for fair allocation of costs and production between the owners and escrowing revenue attributable to conflicting claimants to coalbed methane gas until ownership is decided;
3. Establishing costs which may be included in a forced pooled drilling unit;
4. Submitting miscellaneous petitions before the board;
5. Enforcing regulations and orders of the board; and
3. Hearing appeals of administrative decisions of the

department.

Issues: The issues with this regulation involve establishing the proper balance to foster, encourage and promote the exploration and development of the Commonwealth's gas and oil resources while protecting the rights of gas and oil owners and preventing waste of the Commonwealth's gas and oil resources. Issues include determining standards for notifying potentially affected persons of pending board actions, what information is required to be provided in petitions before the board, how long operators should be required to maintain records, what approval is required to transfer unitized operations, and what surveys are required to ensure well bores are properly located and producing from an approved location.

Impact: As of April 1, 1991, there were 29 gas, oil or geophysical permittees holding 1,040 permits for operations in Virginia that will be affected by this regulation.

Operators would be required to use the State Plane Coordinate System to identify the boundaries of proposed gas or oil fields or proposed drilling units. If an operator does not currently use this system, there may be costs to convert to use of state plane coordinates.

Operators may be required to conduct an inclination or a directional survey depending on the location of a well or if a well is intentionally deviated from vertical. Operators may conduct an inclination survey using equipment installed on most drilling rigs at little to no additional costs, or may contract to have an inclination survey run by an outside party. An inclination survey conducted by a contractor would cost approximately \$3,000 for a typical well in Virginia. A directional survey, conducted by either an operator or a contractor, would cost approximately \$6,000 for a typical well in Virginia.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: B. Thomas Fulmer, Virginia Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or toll-free 1-800-552-3831/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

June 6, 1991 - 8:30 a.m. – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☎

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907.

Calendar of Events

BOARD OF OPTOMETRY

† June 5, 1991 - 8:30 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Conference Room 4, Richmond, Virginia. ☒

Informal conferences.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9942.

* * * * *

July 18, 1991 - 10 a.m. - Public Hearing
1601 Rolling Hills Dr., Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Virginia Board of Optometry.** The purpose of this action is to amend the regulations for purpose of fee changes, clarification of licensing, examinations, renewal, reinstatement procedures, clarification of unprofessional conduct, and continuing education requirements.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Written comments may be submitted until July 18, 1991.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915 or SCATS (804) 662-9910.

VIRGINIA OUTDOORS FOUNDATION

† June 24, 1991 - 10:30 a.m. – Open Meeting
Little River Inn, Aldie, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23229, telephone (804) 786-5539.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

August 7, 1991 - TIME TO BE ANNOUNCED – Open Meeting

August 8, 1991 - TIME TO BE ANNOUNCED – Open Meeting

LOCATION TO BE ANNOUNCED

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a

recorded message about committee meeting agendas.

Contact: Telephone (804) 371-4950 for a recorded message.

Executive Committee

July 8, 1991 - afternoon – Open Meeting
General Assembly Building, 5 West Conference Room,
Richmond, Virginia.

Finance Committee

May 22, 1991 - 10 a.m. – Open Meeting
June 19, 1991 - 10 a.m. – Open Meeting
Capitol Building, House Room 1, Richmond, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Telephone (804) 371-4950 for a recorded message.

May 30, 1991 - 10 a.m. – Open Meeting
June 27, 1991 - 10 a.m. – Open Meeting
Capitol Building, House Room 1, Richmond, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Telephone (804) 371-4950 for a recorded message.

Resources Committee

June 12, 1991 - 9:30 a.m. – Open Meeting
Capitol Building, House Room 1, Richmond, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Telephone (804) 371-4950 for a recorded message.

BOARD OF PROFESSIONAL COUNSELORS

May 20, 1991 - 8:30 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia.

Informal conferences.

May 20, 1991 - 10 a.m. – Open Meeting
9504 A Lee Highway, Fairfax, Virginia.

Examination committee meeting. Public comment will not be received.

Contact: Evelyn Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9912.

BOARD OF PSYCHOLOGY

May 23, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 3, Richmond, Virginia. ☒

A meeting to conduct board business and to continue regulatory review. Public comment will not be received. Written comments may be submitted until May 2, 1991, for distribution.

Examination Committee

June 28, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A regular meeting of the committee. Public comment will not be received.

Contact: Evelyn Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913 or (804) 662-7197/TDD ☎

VIRGINIA RACING COMMISSION

† **June 19, 1991 - 9:30 a.m. - Open Meeting**
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A regular meeting including a review of proposed regulations pertaining to participants, claiming races and standardbred racing.

† **June 19, 1991 - 9:30 a.m. - Public Hearing**
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A public hearing will be conducted on the application by the Wetmoreland-Davis Foundation for a limited license to conduct one day of jump racing with pari-mutuel wagering in Leesburg, Virginia, on October 12, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

* * * * *

† **June 19, 1991 - 9:30 a.m. - Public Hearing**
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing

Commission intends to adopt regulations entitled: **VR 662-03-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Stewards.** The purpose of the proposed amendments is to establish the duties, responsibilities and powers of stewards.

STATEMENT

Purpose: This proposed regulation, VR 662-03-03. Regulations Pertaining to Horse Racing with Parti-Mutuel Wagering - Stewards, sets forth the duties, responsibilities and powers of stewards who shall be the principal officials at horse races with pari-mutuel wagering. It is essential that these matters be clearly delineated so that horse racing will be of the highest quality and integrity.

Estimated impact:

1. Entities affected: The commission will have to retain two stewards, one of which will be designated as the Senior Commonwealth Steward, for each race meeting. Each operator of a licensed horse racing facility shall retain one steward. These three racing officials will be the chief racing officials and, as such, they will be in the forefront of ensuring the integrity of the racing and adherence to the regulations.

It should be noted that the commission has closely followed the uniform regulations of Racing Commissioners International (RCI) and those of neighboring jurisdictions in the development of this proposed regulation.

In the December 17, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of the proposed regulation pertaining to stewards. The commission allocated time during its regular monthly meetings for discussions of the proposed regulation. Counsel from the Attorney General's office was present and commented upon the drafts. Copies of the drafts were distributed to the commission's advisory group which includes representatives of the horse industry from within the Commonwealth.

This proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process. This proposed regulation specifies the duties, and responsibilities and powers of the stewards who will preside at the race meetings with pari-mutuel wagering.

2. Fiscal impact:

a. Cost to affected entities: The licensee will have to provide one steward in accordance with this proposed regulation. Given the nature of the responsibilities, the licensee will seek to retain an experienced steward who has presided at pari-mutuel meetings. Depending upon the extent of the race meeting, the licensee might have to pay \$200 to \$250 per day plus expenses to retain such an

Calendar of Events

experienced racing official. Further, within the physical plant, the licensee will have to provide a stewards' stand to view the races and office space; however, it should be noted that this is customary within the industry.

b. Cost to the commission: The commission will have to provide two stewards. Again, due to the nature of the responsibilities of the positions, the commission will seek experienced stewards who will ensure that the racing is of the highest quality and integrity. Depending upon the number of racing days, the commission would have the option of treating the stewards as contractual employees, as many other jurisdictions do, or retain them as full-time employees.

c. Source of commission funds: The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

Need: This proposed regulation is essential for the conduct of race meetings licensed by the commission. First, the stewards must clearly understand their duties, responsibilities and powers in presiding at race meetings licensed by the commission. Second, other racing officials and participants must be informed of their rights during informal fact-finding proceedings conducted by the stewards. Finally, the purpose of this proposed regulation is to ensure that horse racing in the Commonwealth will be of the highest integrity.

Small business impact: There will be relatively little or no impact upon small business due to this regulation.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

* * * * *

† June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian.** The regulation establishes the duties and responsibilities of the Commission Veterinarian.

STATEMENT

Purpose: This proposed regulation, VR 662-03-04. Regulations Pertaining to Horse Racing with Parti-Mutuel

Wagering - Commission Veterinarian, sets forth the duties and responsibilities of the commission veterinarian. It is essential that these matters relating to the commission veterinarian be clearly delineated so that horse racing will be of the highest quality and integrity.

Estimated impact:

1. Entities affected: The commission will have to retain a commission veterinarian and possibly one or more assistant veterinarians depending upon the extent of horse racing within the Commonwealth. The commission, stewards, other racing officials and participants will rely heavily upon the professional judgment of the commission veterinarian and his assistants, if any. It should be noted that the commission has closely followed the uniform regulations of Racing Commissioners International (RCI) and those of neighboring jurisdictions in the development of this proposed regulation.

In the December 17, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of the proposed regulation pertaining to the commission veterinarian. The commission allocated time during its regular monthly meetings for discussions of the proposed regulation. Counsel from the Attorney General's office was present and commented upon the drafts. Copies of the drafts were distributed to the commission's advisory group which includes representatives of the horse industry from within the Commonwealth.

This proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process. This proposed regulation specifies the duties and responsibilities of the commission veterinarian and his assistants, if any, who will serve at the race meetings with pari-mutuel wagering.

Fiscal impact:

a. Cost to affected entities: There will be little or no cost to the licensee by this proposed regulation. The licensee will have to provide appropriate office space for the commission veterinarian and his assistants. However, it should be noted that this is an accepted industry practice.

b. Cost to the commission: The commission will retain one commission veterinarian and perhaps other assistant veterinarians depending upon the extent of racing within the Commonwealth. Depending upon the number of racing days, the commission would have the option of treating the commission veterinarian and assistant veterinarians as contractual employees, as many other jurisdictions do, or treat the commission veterinarian as a full-time position and any assistants as contractual employees. If the commission treats the commission veterinarian and assistant veterinarians as contractual employees, the expected pay range would be \$150 to \$200 per day.

2. Source of commission funds: The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

Need: This proposed regulation is essential for the conduct of race meetings licensed by the commission. First, the commission veterinarian and his assistants must clearly understand their duties and responsibilities. Second, the stewards, other racing officials and participants must be aware of the regulatory role played by the commission veterinarian and his assistants. Finally, the purpose of this proposed regulation is to ensure that horse racing in the Commonwealth will be of the highest integrity.

Small business impact: There will be relatively little or no impact upon small business due to this regulation.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

* * * * *

June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-05. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings.** The regulation establishes the procedure for appealing decisions of the stewards.

STATEMENT

Purpose: This proposed regulation, VR 662-03-05. Regulations Pertaining to Horse Racing with Parti-Mutuel Wagering - Formal Hearings, establishes the procedures to be followed in filing a request for a formal hearing on a decision of the stewards and disposition of the request by the commission. It is essential that these due process procedures be clearly delineated so that the rights of the holders of permits and the integrity of horse racing in the Commonwealth will be protected.

Estimated impact:

1. Entities affected: The commission has built into its regulations a measure of due process for holders of permits who may request a formal hearing before the commission on decisions by the stewards. The formal hearing will be conducted in accordance with the provisions of the Administrative Process Act whether the

commission hears the formal hearing or assigns a hearing office to preside at the formal hearing. It should be noted that the commission has followed appeal procedures in other jurisdictions as well as those of other regulatory agencies within the Commonwealth in the development of this proposed regulation.

In the December 17, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of the proposed regulation pertaining to appeal hearings. The commission allocated time during its regular monthly meetings for discussions of the proposed regulation. Counsel from the Attorney General's office was present and contributed significantly to the drafting process. Copies of the drafts were distributed to the commission's advisory group which includes representatives of the horse industry from within the Commonwealth.

This proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process. This proposed regulation specifies the procedure and circumstances under which a formal hearing may be requested and the disposition of formal hearings by the commission.

Fiscal impact:

a. Cost to affected entities: There will be little or no cost associated with this regulation to the holders of permits. The only cost would be legal representation or a court reporter at the formal hearing, if the holder of a permit chose to have an attorney present or a court reporter.

b. Cost to the commission: The commission would have to provide an electronic recording system to keep a record of the formal hearing or retain a court reporter, depending upon the nature of the formal hearing. If the commission chose to assign an independent hearing officer, there would be an expense for presiding at the formal hearing and writing a proposed order for the commission's consideration. The cost to the commission will vary greatly depending upon the number of requests for formal hearings.

c. Source of commission funds: The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

Need: This proposed regulation is essential for the conduct of race meetings licensed by the commission. This proposed regulation establishes a due process procedure whereby holders of permits may request a formal hearing before the commission or an independent hearing officer for a review of a decision made by the stewards. Ultimately, by ensuring that there is fairness in the decisions taken by the stewards, horse racing in the

Calendar of Events

Commonwealth will be of the highest integrity.

Small business impact: There will be relatively little or no impact upon small business due to this regulation; however, there will be some increase in the use of court reporting services and professionals offering legal counsel.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

† **June 19, 1991 - 9:30 a.m.** - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses.** The regulation establishes conditions under which horses may be identified, determined eligible for racing and may be barred from racing.

STATEMENT

Purpose: This proposed regulation, VR 662-04-01. Regulations Pertaining to Horse Racing with Parti-Mutuel Wagering - Horses, establishes the conditions under which horses may be identified, determined eligible for racing and may be barred from racing. It is essential for the integrity of racing that the regulations specifically applying to horses be clearly delineated for the benefit of the participants.

Estimated impact:

1. Entities affected: The commission has set forth the requirements under which horses may be identified, the physical conditions under which they may race, disclosure to the public of any workouts or qualifying races, the equipment that may be utilized, and provision for appropriate public disclosure of the same. It should be noted in the development of this proposed regulation that the commission followed regulations in neighboring jurisdictions.

In the June 18, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of the proposed regulation pertaining to horses. The commission allocated time during its regular monthly meetings for discussions of the proposed regulation. Counsel from the Attorney General's office was present and reviewed the various drafts. Copies of the drafts were distributed to the commission's advisory group

which includes representatives of the horse industry from within the Commonwealth.

This proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process. This proposed regulation is essential for the protection of the integrity of horse racing within the Commonwealth.

Fiscal impact:

a. Cost to affected entities: There will be little or no cost associated with this regulation to the holders of permits. However, the operator of a race meeting licensed by the commission will incur some expense in providing space where appropriate displays can be made to the public and ensuring that the provisions of this proposed regulation are being followed by the participants.

b. Cost to the commission: There will be some expense to the commission associated with this proposed regulation. The commission will have to retain a veterinarian to examine horses to determine whether the provisions of this regulation are being followed by the participants. Also, other commission personnel will have to verify that the licensee's personnel are making appropriate displays as required by this regulation. Further, in those circumstances where it appears warranted, the stewards may order a post-mortem on a horse and the expense could range from \$200 to \$500 per horse.

c. Source of commission funds: The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

Need: This proposed regulation is essential for the conduct of race meetings licensed by the commission. This proposed regulation establishes very specific circumstances under which horses may be identified, determined fit for racing, and the equipment that may be utilized in racing horses. Also, this proposed regulation establishes the responsibilities of the participants to inform the public where appropriate notice is required. Finally, the commission has responsibilities and powers necessary to ensure compliance with the provisions of this proposed regulation.

Small business impact: There will be relatively little or no impact upon small business due to this regulation. However, there will be additional utilization of schools of veterinary medicine in those situations where the stewards deem necessary a post-mortem examination.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virgin'

Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

* * * * *

June 19, 1991 - 9:30 a.m. — Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Entries.** The purpose of the proposed amendments is to establish procedures and conditions under which entries will be taken for horse races with pari-mutuel wagering.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until June 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

* * * * *

† June 19, 1991 - 9:30 a.m. — Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing.** The regulation establishes the conditions under which flat racing will be conducted.

STATEMENT

Purpose: This proposed regulation, VR 662-05-01. Regulations Pertaining to Horse Racing with Parti-Mutuel Wagering - Conduct of Flat Racing, sets forth the conditions and procedures to be followed in the conduct of flat racing including several provisions that will apply equally to the conduct of jump and quarter horse racing.

Estimated impact:

1. **Entities affected:** The commission has set forth the conditions and procedures under which flat racing will be conducted, and certain other provisions will be equally applicable to jump and quarter horse racing. These conditions range from the time horses arrive in the paddock to the conclusion of the race. It should be noted in the development of this regulation that the commission has followed the procedures of neighboring jurisdictions as well as the uniform rules of Racing Commissioners International (RCI).

In the August 27, 1990, issue of The Virginia Register, the

commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of a proposed regulation pertaining to the conduct of flat racing. The commission allocated time during its regular monthly meetings for discussions of the proposed regulation. Counsel from the Attorney General's office was present and reviewed the various drafts. Copies of the drafts were distributed to the commission's advisory group which includes representatives of the horse industry from within the Commonwealth.

This proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process. This proposed regulation is essential for the protection of the integrity of horse racing within the Commonwealth.

Fiscal impact:

a. **Cost to affected entities:** There will be little or no cost associated with this regulation. The operator of a race meeting will have to appoint personnel to administer the provisions of this regulation and purchase certain equipment, e.g., retain a clerk of scales and scales for the weighing out and weighing in of jockeys. However, it should be noted that these procedures are accepted industry standards.

b. **Cost to the commission:** There will be some cost to the commission associated with this regulation. The commission will have to appoint two stewards to oversee the other racing officials to ensure that the proper procedures are being followed by the participants. Again, the appointment of such racing officials is a recognized industry standard.

c. **Source of commission funds:** The cost of initially administering this regulation will be drawn from a loan on a treasury bond. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

Need: This proposed regulation is essential for the conduct of race meetings licensed by the commission. This proposed regulation establishes the procedures for the conduct of flat racing, specifying the requirements to be met both by participants and racing officials. Also, certain provisions of this regulation are equally applicable to jump and quarter horse racing.

Small business impact: There will be relatively little or no impact upon small business due to this regulation.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

Calendar of Events

* * * * *

† June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing.** The regulation establishes the conditions under which jump racing will be conducted.

STATEMENT

Purpose: This proposed regulation, VR 662-05-03. Regulations Pertaining to Horse Racing with Parti-Mutuel Wagering - Conduct of Jump Racing, establishes the conditions and procedures under which jump racing will be conducted. This regulation delineates the special provisions that shall apply to jump and racing or steeplechases.

Estimated impact:

1. **Entities affected:** The commission has established the special conditions and procedures to be followed in the conduct of jump racing. This proposed regulation will be applicable to jump races contested during any unlimited race meeting in the Commonwealth and any one day limited race meetings. This proposed regulation was reviewed by Mr. Charles Colgan, the executive director of the National Steeplechase and Hunt Association, for its correctness and completeness.

In the August 27, 1990 issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of a proposed regulation pertaining to jump racing. The commission allocated time during its regular monthly meetings for discussions of the proposed regulation. Counsel from the Attorney General's office was present and reviewed the various drafts. Copies of the drafts were distributed to the commission's advisory group which includes representatives of the Virginia Steeplechase Association and the horse industry of the Commonwealth. This proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process.

Fiscal impact:

a. **Cost to affected entities:** There will be some cost associated with this regulation to horsemen and licensees conducting jump racing. However, there will be little or no additional cost as the horsemen and licensees are already abiding by standards established by the National Steeplechase and Hunt Association and parallel the standards established by the commission.

b. **Cost to the commission:** There will be some cost

associated with this regulation to the commission. The commission will have to appoint two stewards to oversee the other racing officials and participants to ensure that the provisions of this proposed regulation are being followed. However, in any event, the commission will have to appoint two such officials to preside at the race meeting.

c. **Source of commission funds:** The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

Need: This proposed regulation is essential for the conduct of race meetings where there will be jump racing. While many of the provisions of the regulation pertaining to flat racing will apply equally to jump racing, there are exceptional circumstances which must be accounted for in the conditions and procedures for jump racing. Further, while the licensees, racing officials and participants in jump racing will be very familiar with this proposed regulation, it is also essential that these provisions be incorporated into the regulations of the commission to ensure the integrity of the horse racing.

Small business impact: There will be relatively little or no impact upon small business due to this regulation.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

* * * * *

† June 19, 1991 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing.** This regulation establishes the conditions under which quarter horse racing will be conducted.

STATEMENT

Purpose: This proposed regulation, VR 662-05-04. Regulations Pertaining to Horse Racing with Parti-Mutuel Wagering - Conduct of Quarter Horse Racing, establishes the conditions and procedures to be followed in the conduct of racing for American Quarter Horses.

Estimated impact:

1. Entities affected: The commission has established the special conditions and procedures to be followed in the conduct of quarter horse racing. This proposed regulation will be applicable to quarter horse races contested during any unlimited or limited race meetings conducted in the Commonwealth. This proposed regulation is based upon the requirements and procedures of the American Quarter Horse Association.

In the August 27, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of a proposed regulation pertaining to the conduct of quarter horse racing. The commission allocated time during its regular monthly meetings for discussions of the proposed regulation. Counsel from the Attorney General's office was present and reviewed the various drafts. Copies of the drafts were distributed to the commission's advisory group which includes owners and breeders of American Quarter Horses within the Commonwealth. This proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process.

Fiscal impact:

a. Cost to affected entities: There will be some cost associated with this regulation to horsemen and licensees conducting quarter horse racing. However, there will be little or no additional cost as the horsemen and licensees will have to abide by the standards established by the American Quarter Horse Association and the parallel standards established by the commission.

b. Cost to the commission: There will be some cost associated with this regulation to the commission. The commission will have to appoint two stewards to oversee the other racing officials and participants to ensure that the provisions of this proposed regulation are being followed. However, in any event, the commission will have to appoint two such officials to preside at the race meeting.

c. Source of commission funds: The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

Need: This proposed regulation is essential for the conduct of race meetings where there will be quarter horse racing. While many of the provisions of the regulation pertaining to flat racing will apply equally to quarter horse racing, there are exceptional circumstances which must be accounted for in the conditions and procedures for quarter horse racing. Further, while the licensees, racing officials and participants in quarter horse racing will be very familiar with this proposed regulation, it is also essential that these provisions be incorporated into the regulations

of the commission to ensure the integrity of the horse racing.

Small business impact: There will be relatively little or no impact upon small business due to this regulation.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

REAL ESTATE APPRAISER BOARD

May 28, 1991 - 11 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia.

A meeting to approve and adopt proposed regulations.

Contact: Demetra Y. Kontos, Assistant Director,
Department of Commerce, 3600 W. Broad St., 5th Floor,
Richmond, VA 23230, telephone (804) 367-2175 or (804)
367-9753/TDD

REAL ESTATE BOARD

† **May 29, 1991 - 10 a.m. – Open Meeting**
Holiday Inn South, Board Room, US Route 1 and I95,
Fredericksburg, Virginia.

The Real Estate Board will meet to conduct a formal hearing: File Number 90-01542, Real Estate Board v. Vincent F. Mullin.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

June 6, 1991 - 9:30 a.m. – Open Meeting
County Board Room, Number 202, Courthouse, 1400 North Courthouse Road, Arlington, Virginia.

The Real Estate Board will meet to conduct a formal hearing: File Number 89-00994, Real Estate Board v. Virginia S. Smith.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

VIRGINIA RESOURCES AUTHORITY

June 11, 1991 - 9 a.m. – Open Meeting
Virginia Beach Ramada Inn, Virginia Beach, Virginia.

Calendar of Events

The board will meet to (i) approve minutes of the meeting of May 14, 1991; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the 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., Mutual Building, 909 East Main Street, Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX Number (804) 644-3109.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

May 20, 1991 - 9 a.m. - Open Meeting
Blair Building, Conference Room A-B, 8007 Discover Drive, Richmond, Virginia.

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 615-45-1. Child Protective Services Central Registry Information.** The purpose of the proposed amendments is to establish timeframe and rationale for name entry into Central Registry.

Statutory Authority: § 63.1-248.1 et seq. of the Code of Virginia.

Written comments may be submitted until June 8, 1991, to Janine Tondrowski, 8007 Discovery Drive, Richmond, Virginia.

Contact: Margaret Friedenberg, Regulatory Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

June 8, 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 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.** These regulations establish guidelines for sharing information which would be in the best interest of the children and families involved.

Statutory Authority: §§ 2.1-386 and 63.1-248.6 of the Code of Virginia.

Written comments may be submitted until June 8, 1991, to Janine Tondrowski, 8007 Discovery Drive, Richmond, Virginia.

Contact: Margaret Friedenberg, Regulatory Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

† **July 18, 1991 - 10 a.m. - Public Hearing**
Wythe Building, Conference Room A, 1604 Santa Rosa Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-08-01. Virginia Energy Assistance Program.** The proposed amendments to the Fuel Assistance Component will (i) ensure that all eligible individuals who apply for Fuel Assistance during the application period will receive a benefit; (ii) ensure compliance with Public Law 97-35 relative to providing the highest benefit to those with the lowest income and the highest energy costs.

The proposed amendments to the Crisis Assistance component will assist in meeting the needs of needy households, who, due to unforeseen changes in circumstances, find themselves in a heating emergency situation during January, February or March.

STATEMENT

Subject: Proposed amendments to the following regulation: 615-08-01. Virginia Energy Assistance Program. These amendments are being proposed for a 60-day comment period.

Substance: The amendments to the program are:

In the Fuel Assistance Component:

A. Program design will be based on an automated eligibility determination and benefit calculation process dependent on a point matrix system for the Fuel Assistance Component.

B. The application period for Fuel Assistance will be shortened.

C. Benefit levels will not be predetermined. Benefit amounts will be determined by the following factors of each case:

- Number of people in household
- Gross monthly income
- Living arrangements
- Primary heat type
- Climate zone

Calendar of Events

- Vulnerability
- Person 60 years of age or older
- Disabled individual
- Child under 16 in home

The automated system will assign a number of points to each household which will reflect the household's status with regards to the factors listed above. The more points a household has, the larger the benefit.

The total points of all eligible households will be determined. The available benefit dollars will be divided by the point total to determine a point value. The households's benefit amount will be calculated by multiplying the household's point total by the value per point.

In the Crisis Assistance Component:

A. Assistance will be provided on a limited basis to households who did not receive assistance in the current program year from Fuel Assistance to purchase home heating fuel or to pay to prevent the disconnection of a primary utility heat source.

B. The maximum amount of assistance provided will be the amount of the disconnection notice or the cost of filling the tank not to exceed 150 gallons. Maximum amount allowable is \$200.

Basis: Virginia Code, § 63.1-25 provides the statutory basis for the promulgation of regulations relative to the Energy Assistance Program.

Purpose: The proposed amendments to the Fuel Assistance Component will (i) ensure that all eligible individuals who apply for Fuel Assistance during the application period will receive a benefit; (ii) ensure compliance with Public Law 97-35 relative to providing the highest benefit to those with the lowest income and the highest energy costs.

The proposed amendments to the Crisis Assistance component will assist in meeting the needs of needy households, who, due to unforeseen changes in circumstances, find themselves in a heating emergency situation during January, February or March.

Estimated impact: The proposed amendments will affect all households statewide who apply for Fuel Assistance or Crisis Assistance. There are no projected costs to the public, recipients, or vendors. No cost impact is expected for local departments of social services.

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

Written comments may be submitted until July 19, 1991, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF THE TREASURY (TREASURY BOARD)

† July 19, 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 Treasury Board intends to amend regulations entitled: **VR 640-02. Security for Public Deposits Act Regulations.** The purpose of the proposed amendments is to provide adequate protection for public funds on deposit in financial institutions in light of recent changes within financial institutions and in types of securities pledged.

STATEMENT

Basis: Section 2.1-364 of the Code of Virginia grants to the Treasury Board the authority to make and enforce regulations under Chapter 23 of Title 2.1, the Virginia Security for Public Deposits Act (the Act). The powers granted include regulations which: are necessary and proper to ensure performance of the functions under this chapter; fix terms and conditions under which public deposits may be received and held; require additional collateral as the Treasury Board may determine prudent under the circumstances; determine what securities shall be acceptable and fix the percentage of face value or market value of such securities that can be used to secure public deposits; require qualified public depositories to furnish information concerning public deposits; and determine when a default or insolvency has occurred and to take appropriate action.

Purpose: The regulations amend and supersede the regulations adopted March 18, 1987. Emergency regulations, which amended §§ 4 and 7 of VR 640-02, have been in effect since November 1, 1990. The proposed amended regulations are necessary to provide adequate protection for public funds on deposit in financial institutions in light of recent changes in financial institutions and in the types of securities being pledged as collateral under the Act.

Substance: The amendments to § 4 allows the Treasury Board to increase the required collateral of any and all savings institutions above 100% of the public deposits held. The amendment in § 7 states that pledged securities which are difficult to value or subject to rapid decline in value may be valued at less than their market value for purposes of securing public deposits. The amendment to § 8 permits the Treasury Board to select a single escrow agent to hold pledged collateral and requires public deposits to be collateralized at all times. The new § 13 clarifies that a depository who no longer has the authority to receive public deposits is still subject to the provisions

Calendar of Events

of the Act and the regulations as long as it continues to hold public deposits. Other changes to the regulations and the accompanying forms are either clarifying or cosmetic in nature or necessary to conform with statutory changes.

Issues: The issue is the strengthening of the safeguards deemed necessary by the Treasury Board to ensure that, in the event of a financial crisis, the failure of financial institutions would not significantly impair the ability of governmental bodies to protect their assets and perform their duties.

Impact: The impact will be on financial institutions required to pledge collateral under the Act. Banking institutions have a reciprocal agreement to share and cover any deficiencies in case of loss and are required to pledge collateral of between 50% and 100% of their public deposits net of federal deposit insurance. Savings institutions have no reciprocal arrangement and must pledge collateral at the rate of a least 100% above the federally insured limit of their public deposits. Under the proposed amendments, the Treasury Board may require a savings institution to pledge collateral in excess of 100% of public deposits if the savings institution has repeatedly violated the pledging statutes or regulations, or for other reasons deemed sufficient. The overall impact of this cannot be determined since it depends on institutions' compliance with regulations and economic conditions.

The proposed regulations also allow the State Treasurer to require certain securities that are difficult to value, subject to rapid decline in value or otherwise represent a risk of decrease in value, be valued at a rate less than 100% of their market value. Again, the overall impact of this cannot be determined since it depends on each institution's unique position and economic conditions.

Currently financial institutions select their own escrow agent in accordance with regulation requirements. The proposed regulations now allow Treasury Board to select a central escrow agent to safekeep all securities deposited as collateral for public deposits. If and when the Treasury Board elects to have a central escrow agent, there may be a fiscal impact to either the Treasury Board, the financial institutions, or both. This will depend on how the escrow agent's fees are paid. However, the fiscal impact of this decision cannot be determined at this time.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Susan F. Dewey, Director of Financial Policy, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

DEPARTMENT OF WASTE MANAGEMENT

† June 20, 1991 - 7 p.m. - Public Hearing
City Council Chambers, Second Floor, City Hall, 497

Cumberland Street, Bristol, Virginia.

A public hearing on the draft permit amendment proposed by the City of Bristol to combine the city's debris (permit 500) and the sanitary (permit 498) landfills into a single sanitary site. The public comment period will extend until July 1, 1991, at 5 p.m. A copy of the proposed draft permit amendment may be obtained from Russel McAvoy, Jr., Department of Waste Management, Sixth Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia.

Contact: Hassan Vakili, Technical Services Administrator, Department of Waste Management, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 786-3063 or toll-free 1-800-552-2075.

† June 21, 1991 - 2 p.m. - Open Meeting
James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia. ☒

An informational meeting on the initial draft of the proposed "Yard Waste Composting Facility Regulation." The purpose of this regulation is to replace VR 672-20-31, "Yard Waste Composting Regulation" which is an emergency regulation.

Contact: Michael P. Murphy, Environmental Program Manager, 11th Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 371-8737/TDD ☎

STATE WATER CONTROL BOARD

June 4, 1991 - 4 p.m. - Public Hearing
Town Hall, 2nd Street, Cleveland, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: VR 680-21-00. **Water Quality Standards.** The purpose of the proposed amendment is to consider for the Town of Cleveland a variance to the halogen ban section of VR 680-21-01.11 by amending VR 680-01.11, VR 680-21-07.1 and VR 680-21-08.15.

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

Written comments may be submitted until June 21, 1991, to Doneva Dalton, at the address below.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6985.

June 24, 1991 10 a.m. - Open Meeting
June 25, 1991 9 a.m. - Open Meeting
State Water Control Board Offices, Room 1000 (Board Room), Innsbrook Corporate Center, 4900 Cox Road, Glen

Allen, Virginia.

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829.

* * * * *

LEGISLATIVE

VIRGINIA COAL AND ENERGY COMMISSION

May 20, 1991 - 10 a.m. - Open Meeting General Assembly Building, Senate Room B, Richmond, Virginia. ☐

The commission will be presented with information concerning the potential for developing methanol fuel in Virginia. Other matters within the Commission's jurisdiction may also be discussed.

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, 910 Capitol St., General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

STATE WATER COMMISSION

† June 26, 1991 - 1 p.m. - Open Meeting Christopher Newport College, Room cc150, Campus Center, 50 Shoe Lane, Newport News, Virginia.

The commission will review proposal for elimination of the grand fathering of wells in ground water management areas and HJR 460 and SJR 264 from '91 session.

Contact: Marty Farber, Research Associate, Division of Legislative Services, 910 Capitol St., General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

May 20 Coal and Energy Commission, Virginia † Commerce, Board of Emergency Planning Committee, Local - County of Prince William, City of Manassas, and City of Manassas Park

Governor's Job Training Coordinating Council † Professional Counselors, Board of

May 21 ASAP Policy Board - Old Dominion † Conservation and Recreation, Department of - Rappahannock Scenic River Advisory Board † Gas and Oil Board, Virginia Health Services Cost Review Council, Virginia Housing Development Authority, Virginia - Board of Commissioners

May 22 Contractors, Board for - Complaints Committee Corrections, Board of Lottery Board, State Mental Health, Mental Retardation and Substance Abuse Services Board, State Population Growth and Development, Commission on - Finance Committee

May 23 Agriculture and Consumer Services, Board of Arts, Virginia Commission for the Audiology and Speech Pathology, Board of Corrections, Board of - Liaison Committee † Emergency Planning Committee, Local - Richmond † Health Professions, Board of - Task Force on Managed Health Care Medicine, Board of - Chiropractic Examination Committee Psychology, Board of

May 28 † Hazardous Materials Training Committee Marine Resources Commission Migrant and Seasonal Farmworkers Board Real Estate Appraiser Board

May 29 † Governor's Advisory Board on Medicare and Medicaid Local Government, Commission on † Real Estate Board

May 30 Compensation Board Education, Board of Local Government, Commission on Population Growth and Development, Commission on - Governance Committee

May 31 Education, Board of Local Government, Commission on

June 4 Hopewell Industrial Safety Council

Calendar of Events

June 5

† ASAP Policy Board - Mount Rogers
- Board of Directors
Higher Education, State Council of
† Medicine, Board of
† Optometry, Board of

June 6

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
Emergency Planning Committee, Local - Chesterfield
County
Medicine, Board of
Nursing Home Administrators, Board of
Real Estate Board

June 7

† Air Pollution Control Board, State
† Conservation and Recreation, Department of
- Recreation in the Juvenile Justice System
Medicine, Board of

June 8

Medicine, Board of

June 9

Medicine, Board of

June 11

Resources Authority, Virginia

June 12

Conservation and Development of Public Beaches
Population Growth and Development, Commission on
- Resources Committee

June 17

Emergency Planning Committee, Local - County of
Prince William, City of Manassas, and City of
Manassas Park

June 18

† Contractors, Board for
Recovery Fund Committee
† Gas and Oil Board, Virginia

June 19

Corrections, Board of
† Health Professions, Board of
Administration and Budget Committee
Population Growth and Development, Commission on
- Finance Committee
† Racing Commission, Virginia

June 20

† Health, State Board of

June 21

Children, Interdepartmental Regulation of Residential
Facilities for
- Coordinating Committee

† Health, State Board of

† Waste Management, Department of

June 23

† Health Professions, Board of
- Task Force on Managed Health Care

June 24

† Outdoors Foundation, Virginia
Water Control Board, State

June 25

Water Control Board, State

June 26

† Water Commission, State

June 27

Population Growth and Development, Commission on
- Governance Committee

June 28

Athletic Board
† Egg Board, Virginia
Psychology, Board of
- Examination Committee

July 8

Population Growth and Development, Commission on
- Executive Committee

July 12

† Medicine, Board of
- Advisory Committee on Acupuncture

July 16

† Gas and Oil Board, Virginia

July 19

Children, Interdepartmental Regulation of Residential
Facilities for
- Coordinating Committee

July 22

Local Government, Commission on

July 23

Local Government, Commission on

July 24

Local Government, Commission on

August 7

Population Growth and Development, Commission on

August 8

Population Growth and Development, Commission on

August 19

Local Government, Commission on

August 20
Local Government, Commission on

† Health Services Cost Review Council, Virginia

August 20
Local Government, Commission on

PUBLIC HEARINGS

May 20
Social Services, Department of

May 23
Agriculture and Consumer Services, Department of

May 30
Local Government, Commission on

June 4
Aging, Department for the
Water Control Board, State

June 5
Aging, Department for the

June 12
Aging, Department for the

June 13
Aging, Department for the

June 18
† Library and Archives, Virginia State

June 19
† Racing Commission, Virginia

June 20
Chesapeake Bay Local Assistance Board
† Health Professions, Department of
- Task Force on the Need for Medication
Technicians
† Waste Management, Department of

June 26
Aging, Department for the

July 12
† Medicine, Board of
- Advisory Committee on Acupuncture

July 16
† Gas and Oil Board, Virginia

July 18
Optometry, Board of
† Social Services, Department of

July 22
Local Government, Commission on

July 23

Calendar of Events
