

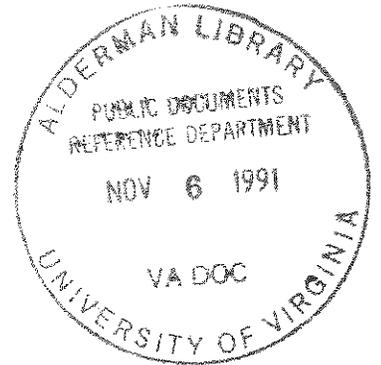
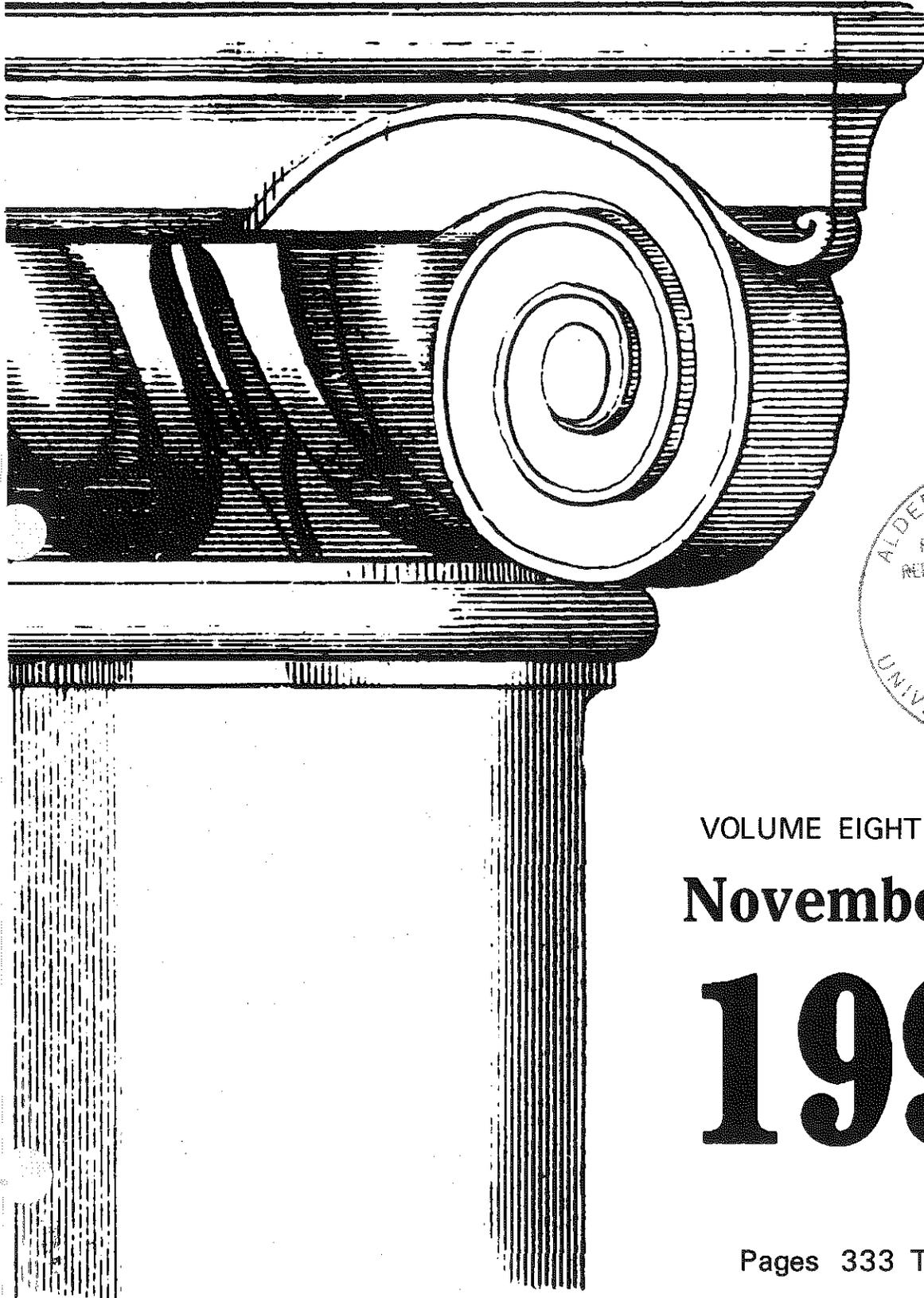
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THE VIRGINIA REGISTER

OF REGULATIONS

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November 4, 1991

1991

Pages 333 Through 468

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 view 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.

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NOTICES OF INTENDED REGULATORY ACTION

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

23240, telephone (804) 786-0177.

† Notice of Intended Regulatory Action

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 115-04-14. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine.** The purpose of the proposed action is to review the regulation for effectiveness and continued need. Among the matters that need to be reviewed are current penalties, reporting and filing dates, and the grounds for exemptions from the various requirements.

Statutory Authority: §§ 3.1-188.21 and 3.1-188.23 of the Code of Virginia.

Written comments may be submitted until December 8, 1991.

Contact: John R. Tate, Agriculture Biologist Supervisor, P.O. Box 1163, 1100 Bank Street, Room 703, Washington Building, Richmond, VA 23209, telephone (804) 786-3515.

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed standards (Rule 4-4, Appendix P) is to require the owner/operator of a specified source to limit VOC and NOx emissions to a level resultant from the use of reasonably available control technology and necessary for the protection of public health and welfare. The purpose of the proposed reporting regulation (§ 120-02-31) is to require the owner/operator to report the levels of emissions from the source in order to assess compliance with emission and air quality standards.

A public meeting will be held on November 13, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

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

Written comments may be submitted until November 13, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Ellen P. Snyder, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed amendment to Part VIII is to require the owner of the proposed new or expanded facility to provide such information as may be needed to enable the agency to conduct a preconstruction review in order to determine compliance with applicable new source performance standards and to assess the impact of the emissions from the facility on air quality. The amendment also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review.

A public meeting will be held on December 10, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

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

Written comments may be submitted until December 10, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed amendment to Rule 4-37 is to require the owner/operator of a petroleum liquid storage and transfer facility to install and operate a vapor control and recovery system for VOC emissions, such that resultant ozone concentrations in the ambient air may be reduced to levels which are necessary for the protection of public health and welfare.

A public meeting will be held on December 11, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

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

Written comments may be submitted until December 11, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Notices of Intended Regulatory Action

Contact: Ellen P. Snyder, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177.

DEPARTMENT OF EDUCATION (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 Education intends to consider promulgating regulations entitled: **Regulations of School Building Construction.** The purpose of the proposed action is to develop standards for the erection of or addition to public school buildings governing instructional, operational, health and maintenance facilities where these are not specifically addressed in the Uniform Statewide Building Code.

Statutory Authority: §§ 22.1-16 and 22.1-138 of the Code of Virginia.

Written comments may be submitted until November 18, 1991.

Contact: David L. Boddy, Environmental Technical Services Administrator, Virginia Department of Education, P.O. Box 6Q, Richmond, Virginia 23216-2060, telephone (804) 225-2035.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **VR 270-01-0012. Standards for Accrediting Public Schools in Virginia.** The purpose of the proposed action is to provide minimum standards to give guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspirations of all students. The amendments are necessary to reflect changes in the missions of the Board of Education and the Department of Education. The board is also adopting new goals as part of the Standards of Quality.

Statutory Authority: §§ 22.1-19 and 22.1-253.13:3 (B) of the Code of Virginia.

Written comments may be submitted until December 30, 1991.

Contact: Ms. Lin Corbin-Howerton, Lead Policy Analysts, Virginia Department of Education, P.O. Box 6Q, Richmond, Virginia 23216, telephone (804) 225-2092, (804) 225-2543 or toll-free 1-800-292-3820.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **Regulations Governing the Newborn Screening and Treatment Program.** The purpose of the proposed action is to include diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia, and to conform with the latest medical and public health standards.

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Cecilia E. Barbosa, Director of Planning and Evaluation, Division of Maternal and Child Health, Virginia Department of Health, 1500 East Main Street, Room 137, Richmond, VA 23218, telephone (804) 786-7367.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-30-01. 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 and 32.1-102.1 et seq. of the Code of Virginia.

Written comments may be submitted until December 5, 1991.

Contact: Paul E. Parker, Director, Division of Resources Development, Virginia Department of Health, 1500 East Main Street, Suite 105, Richmond, VA 23219, telephone (804) 786-7463.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to (i) amend § 6.1 of the rules and regulations to waive requirement of the submission of a certified audited financial statement when a mitigating circumstance exists; (ii) amend §§ 6.2 and 6.3 to state that neither a health care institution's annual budget submission nor any proposed modification to the

Notices of Intended Regulatory Action

annually filed schedule of charges will be accepted for review by the Council until the institution's historical filings and certified audited financial statement have been filed with the Council; (iii) amend § 6.3.1 to include that information regarding the annual survey of rates charged must be provided for each individual health care institution; and (iv) allow for the waiver of the \$10 per working day penalty for failure of a health care institution to file a certified audited financial statement if a mitigating circumstance exists.

Statutory Authority: §§ 9-158(C), 9-163 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until November 21, 1991.

Contact: G. Edward Dalton, Deputy Director, 805 East Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Apprenticeship Council intends to consider amending regulations entitled: **VR 425-01-27. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.** The purpose of the proposed action is to clarify and strengthen the involuntary deregistration procedure of apprenticeship programs by the Virginia Apprenticeship Council.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until November 25, 1991.

Contact: R. S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

MARINE RESOURCES COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider promulgating regulations entitled: **Guidelines for Siting and Evaluating Sand and Gravel Mining Operations in State-owned Subaqueous Beds.** The purpose of the proposed regulations is to develop guidelines to be used by the public and regulatory agencies in siting and reviewing sand and gravel mining

operations where the materials will be extracted from state-owned subaqueous beds.

Statutory Authority: §§ 62.1-3, 62.1-4 and 62.1-13.4 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Robert W. Grabb, Division Chief, Virginia Marine Resources Commission, Habitat Management Division, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

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 460-02-3.1400. Methods of Providing Transportation.** The purpose of the proposed action is to revise the policies of the transportation program to discontinue the prior authorization requirement and to eliminate the prior approval process conducted by local health departments.

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

Written comments may be submitted until 4:30 p.m., November 18, 1991, to Bernard Pomfrey, Transportation Program Manager, Department of Medical Assistance Services, Division of Client Services, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-4.1940:1. Nursing Home Payment System (PIRS): Special Care Services.** The purpose of the proposed action is to promulgate permanent regulations to provide a comprehensive description of the methods and standards used to establish rates for special care services.

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

Written comments may be submitted until 4:30 p.m., November 4, 1991, to Scott Crawford, Reimbursement Consultant, Department of Medical Assistance Services, Division of Policy and Research, 600 E. Broad Street, Suite

Notices of Intended Regulatory Action

1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **Reimbursement Methodologies for All Provider Types: Provider Appeals and Date of Acquisition (Attachments 4.19 A, B, and D.)** The purpose of the proposed action is to (i) adopt a procedure to permit state-owned or operated facilities to appeal their reimbursement rates; (ii) define the "date of acquisition" for revaluation of assets after a change of ownership of a nursing facility.

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

Written comments may be submitted until 4:30 p.m., November 4, 1991, to Shelley Platt, Appeals Officer, Department of Medical Assistance Services, Division of Cost Settlement and Audit, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, 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 promulgating regulations entitled: **VR 465-11-01. Regulations Governing the Practice of Acupuncturists.** The purpose of the proposed action is to comply with the mandate of the 1991 General Assembly's request to develop proposed regulations for the licensure of acupuncturists in conformance with the provisions of the 1991 Act, by December 1, 1992.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 21, 1991, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director of Licensure, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

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 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for psychiatric hospitals in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-03, Rules and Regulations for the Licensure of Private Psychiatric Hospitals, became effective on May 1, 1978. They serve as the licensure regulations for institutions such as psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units in general hospitals, inpatient psychiatric units in community mental health centers and other privately operated facilities serving persons requiring inpatient psychiatric care.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Licensure procedure; rights of patients and residents; physical facility and safety regulations; organization and management; psychiatric facility - general; psychiatric facility services; personnel practices; medical staff; admissions; diagnosis and treatment; emergency services; nursing services; social work service; psychological service; religious services; laboratory service; radiological service; pharmacy; medical records; education program; orientation and education; dietary department.

It is the intention of the department to repeal: VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation

Notices of Intended Regulatory Action

Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for hospital based, medical detoxification facilities, inpatient substance abuse facilities, and similar inpatient facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-05, Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities, became effective on January 1, 1980. On July 1, 1988, they were repealed with respect to their applicability to all programs except for inpatient hospital based substance treatment programs.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; classification of facilities, licensure procedures; patient rights; health and safety regulations; space usage; sanitary, health and special medical requirements; personnel practices; program and services; special residential facility requirements; record keeping; organization and management; methadone facilities requirements.

It is the intention of the department to repeal: VR

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470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure

process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for correctional psychiatric facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-07, Rules and Regulations for the Licensure of Correctional Psychiatric Facilities, became effective on April 30, 1986. They serve as the licensure regulations for psychiatric units in correctional facilities under the management and control of the Department of Corrections.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; legal base; licensing procedures; client rights; physical facility and safety; health and safety

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regulations; organization and management; psychiatric facility - general; psychiatric facility services; personnel practices; rehabilitation service (when provided); personnel practices; professional staff; admissions to psychiatric facility; diagnosis and treatment; emergency services; nursing services; social work service; psychological service; religious services; laboratory service; radiological service; pharmacy service; medical records; dietary department (food service).

It is the intention of the department to repeal: VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for supported residential programs and residential respite care/emergency services facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing

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care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-08, Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities, became effective on July 1, 1988. They serve as the licensure regulations for supported residential programs providing placement and residential and supportive services to clients in supervised apartments, specialized foster homes and independent living settings. They also serve as the licensure regulations for residential respite care facilities and residential emergency service facilities.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; residential environment; programs and services; and disaster or emergency plans.

It is the intention of the department to repeal: VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the

department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish

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the minimum licensure requirements for outpatient facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-09, Rules and Regulations for the Licensure of Outpatient Facilities, became effective on July 1, 1988. They serve as the licensure regulations for outpatient facilities which provide a variety of treatment interventions generally of less than three consecutive hours duration for mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, diagnosis and evaluation, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; physical environment; programs and services; disaster or emergency plans; outpatient methadone facilities.

It is the intention of the department to repeal: VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

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Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for day support programs in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-10, Rules and Regulations for the Licensure of Day Support Programs, became effective on July 1, 1988. They serve as the licensure regulations for publicly or privately operated facilities which provide a planned program of treatment or training interventions generally of more than three consecutive hours duration to mentally ill, mentally retarded, or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Day Support Programs are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. The term "day support program" does not include entities whose primary function is to provide extended sheltered employment or work activity programs, supported or transitional employment programs, educational programs, or recreational programs.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; physical environment; programs and services; disaster or emergency plans; and methadone treatment facilities.

It is the intention of the department to repeal: VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure

of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway,

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Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for residential facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-11, Rules and Regulations for the Licensure of Residential Facilities, became effective on July 1, 1988. They serve as the licensure regulations for any publicly or privately owned facility or institution by whatever name or designation which provides 24-hour domiciliary or residential care or treatment for four or more mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; residential environment;

programs and services; disaster or emergency plans; and residential methadone treatment facilities.

It is the intention of the department to repeal: VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

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In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 promulgating regulations entitled: **VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.** The purpose of the proposed action is to establish the minimum licensure requirements for all facilities and program types in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

The Department has nine sets of licensure regulations in effect at this time. Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort

to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

It is the intention of the department to repeal the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons. 1

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written

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comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

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 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum requirements and program structures to assure the rights of patients of private psychiatric hospitals and other psychiatric facilities.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-03-01, Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities, became effective on August 1, 1980. They serve as the human rights regulations for facilities and institutions licensed pursuant to VR 470-02-03, Rules and Regulations for the Licensure of Private Psychiatric Hospitals. They apply to such facilities as privately operated psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units in general hospitals, inpatient psychiatric units in community mental health centers and other privately operated facilities serving persons requiring inpatient psychiatric care.

These regulations are comprised of the following issues which have impact on facilities and their clients:

Applicability; Policy; Definitions; Rights including: legal rights, prompt evaluation and treatment, treatment with dignity, not be subjected to research without written consent, consultation with private physician, hazardous treatment, irreversible surgical procedures, aversive conditioning, least restrictive conditions, send and receive sealed letter mail, access to and confidentiality of patient records, and participation in work activities; Review process; and Informing patients about their rights and remedies.

It is the intention of the department to repeal: VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities, as well as the following regulations:

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

Notices of Intended Regulatory Action

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-30-1. Virginia Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed action is to incorporate by reference changes that were made to Title 49, Code of Federal Regulations, from July 1, 1990, to June 30, 1991.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until December 4, 1991, to William F. Gilley, Department of Waste Management, 11th Floor, Monroe Building, Richmond, VA

23219.

Contact: C. Ronald Smith, Hazardous Waste Enforcement Chief, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 225-4761 or toll-free 1-800-552-2075.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDHS) General Permit Regulation for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposed action is to promulgate the emergency regulations which became effective on July 12, 1991, as permanent regulations.

General permits may be issued for categories of dischargers that (i) involve the same or similar types of operations; (ii) discharge the same or similar types of wastes; (iii) require the same effluent limitations or operating conditions; and (iv) require the same or similar monitoring. This general permit will cover the category of small domestic sewage treatment plants which are designed to treat up to 1,000 gallons per day. These treatment plants are typically installed at individual homes when central sewer is not available and the soil conditions prohibit the use of septic tanks and drainfields. They may also be installed to treat domestic sewage from duplexes, churches, gas stations, etc., where sewage flow is low and other treatment alternative are not available. These treatment plants have minimal impact on water quality.

As with an individual permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Also, no discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Adoption of these regulations as permanent regulations will allow for the continuation of the benefits derived from the emergency regulations. There are approximately 1,000 individual VPDES permits in effect for discharges in this category. These permittees could qualify for coverage under the proposed general permit. Coverage under the general permit would reduce the paper work, time and expense involved in obtaining a permit for the dischargers in this category. Adoption of the proposed regulations would also reduce the manpower needed by the Water Control Board for permitting these discharges. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

Notices of Intended Regulatory Action

The agency is soliciting comments from the regulated community on the specific impact of the proposed regulatory actions.

A public meeting will be held to receive views and comments and to answer questions of the public (See Calendar of Events Section).

Applicable laws and regulations include the State Water Control Law, the Clean Water Act, and the Permit Regulation (VR 680-14-01).

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-10. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from Molluscan Shellfish and Crustacea Processing Establishments.** The purpose of the proposed action is to adopt a general permit to cover the category of discharges which are generated by seafood packing houses.

General permits may be issued for categories of dischargers that (i) involve the same or similar types of operations; (ii) discharge the same or similar types of wastes; (iii) require the same effluent limitations or operating conditions; and (iv) require the same or similar monitoring. As with an individual permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Also, no discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Under this proposal the category, or series of categories, of discharges to be covered by proposed general permit regulations is the category of discharges which are generated by seafood packing houses. The facilities covered by this general permit may produce a variety of final products; however, their wastes are similar in nature and can be covered by the same general permit. The covered facilities would be those processors of various shellfish and crustacean seafoods which produce minimal volumes of wastewaters and whose wastes are not considered to be significant threats to water quality. Seafood processing discharges which are believed to impact water quality would be required to obtain individual VPDES permits, rather than be covered by this

general permit. This permit would only cover industrial wastes associated with the operation of small facilities. Discharges of sanitary wastes would not be authorized by this permit.

The State Water Control Board recognizes the potential for developing general permits for other categories of discharges which are currently required to obtain individual VPDES permits. The board is also soliciting comments from the public on specific categories which the public feels are more appropriately covered by a general permit.

Adoption of these regulations will allow for the streamlining of the VPDES permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the dischargers in these categories. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The seafood processors must have a valid permit from the State Water Control Board prior to receiving Certificates of Inspection from the State Health Department. Delays in issuance of a permit from the board may have serious economic impacts on this industrial category. Adoption of the proposed regulation would reduce the manpower needed by the State Water Control Board for permitting these discharges. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

In addition, the agency is soliciting comments from the regulated community on the specific impact of the proposed regulatory actions.

The board will hold a public meeting to receive views and comments and to answer questions of the public (See Calendar of Events Section).

Applicable laws and regulations include the State Water Control Law, the Clean Water Act, § 6 2 of the Permit Regulation (VR 680-14-01).

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-11. Corrective Action Plan General Permit for Underground Storage Tanks.** The purpose of the proposed action is to adopt a general permit to establish standard language for the various methods of remediation associated

Notices of Intended Regulatory Action

with underground storage tank releases.

Whenever a release from an underground storage tank system is identified, certain activities are required of the owners and operators of the system. These activities are governed by VR 680-13-02, Underground Storage Tanks: Technical Standards and Corrective Action Requirements. Among the required activities are immediate pollution abatement steps, a site assessment, a risk assessment and a remediation assessment. Based on the information gathered, the board may require the owner and operator to submit a corrective action plan for responding to the pollution situation. Owners and operators are then required to obtain a Corrective Action Plan (CAP) Permit in order to implement the remediation activities of the corrective action plan.

The intent of these proposed general permit regulations is to establish standard language for the various methods of remediation associated with underground storage tank releases. Final remediation goals will be established through the corrective action plan for the individual site. Those corrective action plans are not intended to be specified in these regulations. They would be incorporated by reference into the CAP General Permit. This would involve a separate public participation requirement in accordance with the UST Regulation (VR 680-13-02).

The remediation activities needed to restore the environment at these sites will be determined on a case-by-case basis. Some of them will require a permit to discharge treated ground water to surface waters. The proposed general permit will establish effluent limitations and monitoring requirements for these discharges of treated ground water. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Remediation at other sites may involve pollution management activities which do not result in surface water discharges. Those treatment technologies and applicable monitoring requirements would also be established in the general permit.

Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. This could be of some environmental significance when delays in obtaining a CAP permit result in delays in the initiation of ground water remediation efforts. Of the over 60,000 registered underground storage tanks in Virginia, up to 9,000 are expected to report some sort of leak during their lifetimes. The Water Control Board currently is working with owners of approximately 2,500 leaking underground storage tanks and the number of sites is growing at the rate of over 50 per month. Adoption of the proposed regulation would reduce the manpower needed by the State Water Control Board for permitting these discharges.

In addition, the agency is soliciting comments from the regulated community on the specific impact of the proposed regulatory actions.

The board will hold a public meeting will be held to receive views and comments and to answer questions of the public (See Calendar of Events Section).

Applicable laws and regulations include the State Water Control Law, Clean Water Act, Permit Regulation (VR 680-14-01), and Underground Storage Tanks: Technical Standards and Corrective Action Plan Requirements (VR 680-13-02).

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: VR 230-30-006. ~~Jail~~ Work/Study Release Standards for Local Facilities.

Statutory Authority: §§ 53.1-5 and 53.1-131 of the Code of Virginia.

Public Hearing Date: January 15, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the Work/Study Release Standards for Local Facilities establish the evaluation criteria for the administration and supervision of Work/Study Release Programs operating by local and regional jails throughout the Commonwealth.

These regulations are basically the same as the previous regulations. Provisions are now made for state inmates housed in a local or regional jail to participate in the program if otherwise eligible.

VR 230-30-006. Work/Study Release Standards for Local Facilities.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. Definitions.

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

"Approval authority" means the sheriff or administrator of a local or regional jail.

"Department" means the Department of Corrections.

"Director" means the Director of the Department of Corrections.

"Educational program" means a program of learning recognized by the State Council of Higher Education, the State Board of Education or the State Board of Corrections.

"Facility" means the actual physical setting in which a

program or agency functions.

"Governing authority" means the administrative department, division or board of directors to which the agency reports; it is the policy setting body.

"Local offender" means an individual who has been sentenced to a term which would result in incarceration in a local correctional facility.

"Program" means the plan or system through which a correctional agency works to meet its goals; often this program requires a distinct physical setting.

"Rehabilitative program" means an alcohol and drug treatment program, mental health program, family counseling, community service or other community program approved by the court having jurisdiction over the offender.

"State offender" means an individual who has been sentenced to a term which would result in incarceration in a state correctional institution.

"Study release" means the time when participants leave the confinement to attend educational programs in the community.

"Work release" means full-time employment or participation in suitable vocational training programs.

Article 2. Legal base.

§ 1.2. Sections 53.1-5 and 53.1-131 of the Code of Virginia direct the State Board of Corrections to prescribe regulations governing the operation of work release, educational and other rehabilitative programs.

Article 3. Administration.

§ 1.3. The Work/Study Release Program Standards, adopted by the State Board of Corrections on September 13, 1984, are superseded on the effective date of these standards.

§ 1.4. The court, sheriff, or administrator of a local or regional jail has the responsibility for authorizing local offenders confined in jail under the provisions of § 53.1-20 of the Code of Virginia to participate in a work release program, or other educational or rehabilitative programs authorized under the provisions of § 53.1-131 of the Code of Virginia.

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§ 1.5. State offenders must be eligible and meet the established criteria of the department before being returned to a local or regional jail to participate in a work release program, or other educational or rehabilitative programs authorized under the provisions of § 53.1-131.

§ 1.6. These standards shall be considered an appendix to other standards adopted by the Board of Corrections that regulate or evaluate a local or regional jail or community residential facility that participates in the Work or Study Release Program.

PART II.

A. Fiscal PROGRAM ADMINISTRATION AND MANAGEMENT.

Article 1. Program.

A1. Written policy and procedure provide for the participant to reimburse the program for legitimate expenses from earned wages.

A2. § 2.1. Written policy and procedure shall govern the establishment and administration of participant funds accounts, in accordance with Virginia's Code, § 53.1-131. Each facility with a work or study release program shall develop written procedures that outline the eligibility criteria for participation in these programs for both state and local offenders.

§ 2.2. Each facility with a work or study release program in which state offenders participate shall have a written agreement with the director.

B. Facility.

This section of Local Work/Study Release Standards concerns the housing of work/study release inmates within the correctional facility.

B1. Work/Study Release program administrators should make every effort possible to limit the commingling of work/study release inmates with other inmates in the facility in order to deter the instances of contraband being brought into the facility.

C. Program.

C1. § 2.3. Unless ordered by an appropriate court, inmate participation in the Work/Study Release Program Adult offender participation in a work or study release program shall be under conform to the following specific conditions : unless ordered otherwise by an appropriate court.

1. Participation by the inmate is shall be on a voluntary basis;
2. Representatives of local union central bodies or similar labor union organizations shall have been

consulted;

3. Such paid Employment will not result in the displacement of employed workers, or be applied in skills, crafts or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

4. The Rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed.

§ 2.4. Written procedures shall be developed which ensure the accountability of participants at all times and provide for supervision in the community. Such procedures shall include at least:

1. Provisions for a periodic count of inmates;
2. Methods for determining and identifying inmates who are authorized to leave the facility;
3. Provisions for a controlled sign-out and sign-in process; and
4. Methods of verifying the location of the inmate within the community, both by telephone and random field visits.

Article 2. Furloughs and Passes.

C2. § 2.5. The agency sheriff or administrator of a local or regional jail may grant furloughs to provide program participants with increasing opportunities for home or family visits.

§ 2.6. Furloughs shall be governed by the following procedures: Written procedure which governs granting of furloughs shall include at least the following provisions:

1. A participant in the Work/Study Release Program may be considered for one furlough per month. Furloughs should shall not exceed three days.
2. Participants in the Work/Study Release Program may be authorized Special furloughs may be authorized for specific purposes provided the need for such a special furlough can be verified and upon approval of the program director .

In addition, participants may also be authorized furloughs for the purpose of securing post release plans; upon the recommendation of the program director.

3. § 2.7. The program director has the authority to sheriff or administrator of a local or regional jail may authorize temporary passes not to exceed two hours in duration for specific verified purposes ; not to include other tha.

recreation and family visits.

Article 3. Facility.

~~C4.~~ The agency shall have written policy and procedures to account for the whereabouts of participants and provide supervision in the community.

§ 2.8. The sheriff or administrator of a local or regional jail shall develop written procedures to control the instances of contraband being brought into the facility.

~~C2.~~ § 2.9. Inmates who participate in work release programs shall continue to be provided all the basic services which are mandated in previous other standards for this governing the type of facility in which the program is located. Such services must include, but are not be limited to, the following:

1. Shelter, including bathing and laundry facilities;
2. Food, including special diets where appropriate;
3. Medical and mental health services;
4. Access to library and recreational areas; and
5. Opportunity to attend religious services.
6. Individual or group counseling.

Article 4. Fiscal Programs.

§ 2.10. Any wages earned may, upon order of the court, be paid directly to the sheriff or administrator of a local or regional jail. Distribution of such wages shall be made for the following purposes:

1. To pay an amount to defray the cost of his keep;
2. To pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program;
3. To provide support and maintenance for his dependents or to make payments to the local department of welfare or social services or the Commissioner of Social Services, as appropriate, on behalf of dependents who are receiving public assistance; and
4. To pay any fines, restitution or costs as ordered by the court.

All funds remaining at the end of the sentence shall be paid to the participant.

2.11. Written procedures shall be developed to ensure

the accountability of all funds received, disbursed, to whom and reason on behalf of the participant.

D. Records: Article 5. Records.

~~D1.~~ § 2.12. The agency personal case record for state offenders shall include at a minimum, the following information for those participants in the program 7 days or more:

1. Presentence or postsentence investigation;
2. Case history/social history;
3. Psychological report;
4. Current time update;
5. Signed release of information forms;
6. Evaluation and progress reports;
7. Current employment data;
8. Rules of residency and disciplinary policy, signed by resident;
9. Referrals to other agencies; and
10. Final discharge report, if applicable.

E. Removal from Program: Article 6. Removal from Program.

~~E1.~~ § 2.13. Written policy and procedures shall be established governing outlining the criteria and procedure process for removal of a participant from the program. Removal procedures shall include provisions for an impartial hearing for the participants. This information shall be explained to all participants at time of assignment to the program.

Glossary

Agency. The unit of a governing authority which has direct responsibility for the execution of a corrections program, including the implementation of policy as set forth by the governing authority.

Educational program. Means a program of learning recognized by the State Council of Higher Education, the State Board of Education or the State Board of Corrections.

Facility. The actual physical setting in which a program or agency functions.

Governing authority. The administrative department, division or board of directors to which the agency reports; it is the policy setting body.

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Program. The plan or system through which a correctional agency works to meet its goals; often this program requires a distinct physical setting.

Rehabilitative program. Includes an alcohol and drug treatment program; mental health program; family counseling; community service or other community program approved by the court having jurisdiction over the offender.

Study release. The time when participants leave the confinement to attend school in the community; returning to custody after school hours.

Work release. Means full time employment or participation in suitable vocational training programs.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-0054. Regulations Governing Reporting of Acts of Violence and Substance Abuse in Schools.

Statutory Authority: § 22.1-280.1 of the Code of Virginia.

Public Hearing Date: January 6, 1992 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations provide a format and timelines for local school divisions to report to the Department of Education certain acts of violence and substance abuse. The regulations require that principals report to the division superintendent semi-annually, the incidence of physical battery, sexual battery, homicide, possession of weapons, possession of alcohol, possession of drugs, possession of tobacco products, and the number of students involved in such behavior. The regulations further require the division superintendent to submit to the Department of Education an aggregate report on or before the last day of October.

VR 270-01-0054. Regulations Governing Reporting of Acts of Violence and Substance Abuse in Schools.

§ 1. The principal of each public school shall collect and maintain information on the following events which occur on school property, on a school bus, or at a school-sponsored activity, and shall report the information semi-annually to the division superintendent on dates established by the superintendent. The division superintendent shall submit annually to the Department of Education, on forms provided by the department, an aggregate report of such incidences on or before the last day of October.

A. Incidences of crime and violence.

1. Physical battery

- a. On school personnel by students
- b. On students by students
- c. On students by persons other than students

2. Sexual battery

- a. On school personnel by students
- b. On students by students
- c. On students by persons other than students

3. Homicides

- a. On school personnel by students
- b. On students by students
- c. On students by persons other than students

4. Possession of weapons

5. Possession of alcohol

6. Possession of drugs

7. Possession of tobacco products

B. Students involved in incidences of crime and violence.

1. Total number of students involved in physical assaults

- a. Perpetrator (categorized by grade and gender)
- b. Victims (categorized by grade and gender)

2. Total number of students involved in sexual battery

- a. Perpetrator (categorized by grade and gender)
- b. Victims (categorized by grade and gender)

3. Total number of students involved in homicides

- a. Perpetrator (categorized by grade and gender)
- b. Victims (categorized by grade and gender)

4. Total number of students involved in possession of weapons (categorized by grade and gender)

5. Total number of students involved in possession of alcohol (categorized by grade and gender)

6. Total number of students referred (by self or others) for assistance with substance abuse problems (categorized by grade and gender)

7. Total number of students involved in possession of drugs (categorized by grade and gender)

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: ~~VR 355-24-01.~~ VR 355-34-100. Private

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Well Regulations.

Statutory Authority: § 32.1-176 of the Code of Virginia.

Public Hearing Dates:

December 2, 1991 - 7 p.m.
December 3, 1991 - 7 p.m.
December 4, 1991 - 7 p.m.
December 9, 1991 - 7 p.m.
December 10, 1991 - 7 p.m.
December 12, 1991 - 7 p.m.
December 16, 1991 - 7 p.m.
December 18, 1991 - 7 p.m.
December 19, 1991 - 7 p.m.

(See Calendar of Events section for additional information)

Summary:

The Private Well Regulations were effective September 1, 1990. These regulations established minimum location and construction standards for private wells. They also established a permitting process for all private wells. After September 1, 1990, a permit from the Department of Health was required before drilling any private well. These regulations replaced portions of Article 11 in the Sewage Handling and Disposal Regulations that governed private wells constructed in conjunction with onsite sewage systems. Observation and monitoring wells were exempted from the location and construction requirements of the regulations except when they were to remain in use as a water well. Well abandonment was also described in the regulations.

The proposed revisions mostly deal with Class IV (or nondrinking water wells) and their location relative to a building that is chemically treated for termites. The regulations as effective on September 1, 1990, required a minimum separation distance of 100 feet between Class IV wells and termite treated building foundations. About the time the regulations were to be effective, but after the public comment period had closed, the State Health Commissioner was contacted by a group of concerned well drillers and associated business people from the Tidewater area objecting to the 100 feet minimum separation distance. In response to their concern, the commissioner issued a variance to the minimum separation distance. This variance then permitted the location of Class IV wells as close as 25 feet from a termite treated foundation if the well construction and site conditions met certain requirements. The bulk of the proposed revisions to the regulations incorporate the 25 feet minimum separation distance for Class IV wells and the corresponding construction and site conditions required to meet this distance.

Another change is the inclusion of emergency procedures to give priority to applications to replace wells that have failed to provide the water necessary

for their intended use. These emergency procedures apply to replacement private drinking water wells, heat pump source wells, or commercially dependent wells (wells that are the sole source of water for a commercial facility that requires water from the well for continued operation).

Other changes include a provision locating wells on property other than the owner's if an easement in perpetuity is recorded and deletion of the 10 feet minimum separation distance between wells and property and utility lines.

The remaining changes consist mostly of clarification of the existing regulations and correction of errors in the text.

The reader should refer to the General Notices section of The Virginia Register for additional information on proposed amendments to these regulations.

VR 355-34-100. Private Well Regulations.

PART I. GENERAL FRAMEWORK FOR REGULATIONS.

Article 1. Definitions.

§ 1.1. Definitions.

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

"Abandoned well" means a private well whose pump has been disconnected for reasons other than repair or replacement, or whose use has been discontinued or pronounced abandoned by the owner. A temporarily abandoned well is a well that is intended to be returned to service as a source of water at some future time. A permanently abandoned well is a well that is not intended to be used as a source of water at any future time. Abandoned wells must meet the requirements of § 3.11.

"Agent" means a legally authorized representative of the owner.

"Annular space" means the space between the bore hole wall and the outside of a water well casing pipe, or between a casing pipe and a liner pipe.

"Aquifer" means a geologic formation, group of formations, or part of a formation, that transmits water.

"Bedrock" means any solid rock underlying soil, sand, or clay.

"Bored well" means a well that is excavated by means of a soil auger (hand or power) as distinguished from a

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well which is drilled, driven, dug, or jetted.

"Closed-loop ground-source heat pump well" means a well consisting of a sealed loop of plastic pipe buried beneath the earth's surface to allow heat transfer between the fluid in the pipe and the earth.

"Collapsing material" means any soil or gravel material which collapses upon itself forming a seal with the casing and leaves no voids around the casing.

"Commercially dependent well" means a well that is the sole source of water for a commercial facility that requires the water from the well for continued operation. Examples include wells serving an ice plant, a car wash facility, or irrigation for commercial nurseries.

"Commissioner" means the State Health Commissioner or his subordinate who has been delegated powers in accordance with § 1.8 B of these regulations.

"Confined aquifer" means an aquifer that is confined by an overlying impermeable formation.

"Consolidated rock" means a formation consisting entirely of a natural rock formation that contains no soil and does not collapse against the well casing.

"Construction of wells" means acts necessary to construct private wells, including the location of private wells, the boring, digging, drilling, or otherwise excavating of a well hole and installing the installation casing with or without well screens, or well curbing.

"Deep well ejector pump system" means a well that utilizes a casing adapter inside the well casing and a deep well ejector. These wells must maintain a constant vacuum to operate.

"Dewatering well" means a driven well constructed for the sole purpose of lowering the water table and kept in operation for a period of 60 days or less. Dewatering wells are used to allow construction in areas where a high water table hinders or prohibits construction and are always temporary in nature.

"Disinfection" means the destruction of all pathogenic organisms.

"Division" means the Division of Sanitarian Services.

"District health department" means a consolidation of local health departments as authorized in § 32.1-31 C of the Code of Virginia.

"Drilled shallow well suction pump system" means a drilled well two inches or less in diameter that utilizes an offset pump to draw water from the well through the casing. These wells must maintain a constant vacuum in order to operate.

"Drilled well" means a well that is excavated wholly or in part by means of a drill (either percussion or rotary) which operates by cutting or abrasion.

"Driven well" means a well that is constructed by driving a pipe, at the end of which there is a drive point and screen, without the use of any drilling, boring or jetting device.

"Dug well" means a well that is excavated by means of picks, shovels, or other hand tools, or by means of a power shovel or other dredging or trenching machinery, as distinguished from a bored, drilled, driven, or jetted well.

"Emergency well replacement" means the replacement of an existing private drinking water well, heat pump well, or commercially dependent well that has failed to deliver the water needed for its intended use. Such failure requires the drilling of a new well or extensive modifications to the existing well. The replacement of failed noncommercial irrigation wells, agricultural wells, and other types of private wells are not considered emergencies.

"Gravel pack" means gravel placed outside a well screen in a well to assist the flow of water into the well screen and to inhibit clogging of the screen.

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

"Grout" means any stable, impervious bonding material, reasonably free of shrinkage, which is capable of providing a watertight seal in the annular spaces of a water well throughout the depth required, to protect against the intrusion of objectionable matter.

"Jetted well" means a well that is excavated using water pumped under pressure through a special washing point to create a water jet which cuts, abrades, or erodes material to form the well.

"Local health department" means the department established in each city and county in accordance with § 32.1-30 of the Code of Virginia.

"Noncollapsing material" means soil or gravel material which can maintain an open bore hole long enough to grout the annular space between a well and the bore hole or rock or soil material which collapses upon itself but created voids around the casing.

"Observation or monitoring well" means a well constructed to measure hydrogeologic parameters, such as the fluctuation of water levels, or for monitoring the quality of ground water, or for both purposes.

"Owner" means any person, who owns, leases, or proposes to own or lease a private well.

"Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized under the law of this Commonwealth or any other state or country.

"Private well" means any water well constructed for a person on land which is owned or leased by that person and is usually intended for household, ground water source heat pump, agricultural use, industrial use, or other nonpublic water well.

"Replacement well" means a well being constructed to take the place of an existing well that is being taken out of service and is being abandoned.

"Sanitary survey" means an investigation of any condition that may affect public health.

"Screen" means the intake section of a well that obtains water from an unconsolidated aquifer providing for the water to flow freely and adding structural support to the bore hole. Screens are used to increase well yield or prevent the entry of sediment, or both.

"Sewage" means water carried and nonwater carried human excrement, kitchen, laundry, shower, bath, or lavatory wastes separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewage disposal system" means a sewerage system or treatment works designed not to result in a point source discharge.

"Sewer" means any sanitary or combined sewer used to convey sewage or municipal or industrial wastes.

"Sewerage system" means pipelines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

"Subsurface soil absorption" means a process which utilizes the soil to treat and dispose of sewage effluent.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for the ultimate disposal of residues or effluents resulting from such treatment.

"Variance" means a conditional waiver of a specific regulation which is granted to a specific owner relating to a specific situation or facility and may be for a specified time period.

"Water table" means the uppermost surface of ground water saturation. The level in the saturated zone at which the pressure is equal to atmospheric pressure.

"Water well" or "well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure or is intended to be artificially drawn; provided this definition shall not include wells drilled for the following purposes: (i) exploration or production of oil or gas, (ii) building foundation investigation and construction, (iii) elevator shafts, (iv) grounding of electrical apparatus, or (v) the modification or development of springs.

"Yield" means the quantity of water, usually measured in volume of water per unit time, which may flow or which may be pumped, from a well or well field.

Article 2. General Provisions.

§ 1.2. Authority for regulations.

Title 32.1 of the Code of Virginia, and specifically §§ 32.1-12 and 32.1-176.4, provide that the State Board of Health has the duty to protect the public health and to ensure that ground water resources are not adversely affected by the construction and location of private wells. In order to discharge this duty, the board is empowered to supervise and regulate the construction and location of private wells within the Commonwealth.

§ 1.3. Purpose of regulations.

These regulations have been promulgated by the State Board of Health to:

1. Ensure that all private wells are located, constructed and maintained in a manner which does not adversely affect ground water resources, or the public welfare, safety and health;
2. Guide the State Health Commissioner in his determination of whether a permit for construction of a private well should be issued or denied;
3. Guide the owner or his agent in the requirements necessary to secure a permit for construction of a private well; and
4. Guide the owner or his agent in the requirements necessary to secure an inspection statement following construction.

§ 1.4. Relationship to Virginia Sewage Handling and

Proposed Regulations

Disposal Regulations.

These regulations supersede § 4.50 of the Virginia Sewage Handling and Disposal Regulations, and § 4.49 B and C of the Virginia Sewage Handling and Disposal Regulations which address private wells, and were adopted by the State Board of Health pursuant to Title 32.1 of the Code of Virginia.

§ 1.5. Relationship to the State Water Control Board.

These regulations are independent of all regulations promulgated by the State Water Control Board. Ground water users located in a ground water management area may be required to obtain a permit from the State Water Control Board in addition to obtaining a permit from the Department of Health.

§ 1.6. Relationship to the Department of Waste Management.

These regulations establish minimum standards for the protection of public health and ground water resources. Observation wells, monitoring wells, and remediation wells constructed under the supervision of the Virginia Department of Waste Management are governed by § 3.8 of these regulations.

§ 1.7. Relationship to the Uniform Statewide Building Code.

These regulations are independent of and in addition to the requirements of the Uniform Statewide Building Code. All persons required to obtain a well permit by these regulations shall furnish a copy of the permit to the local building official, upon request, when making application for a building permit. Prior to obtaining an occupancy permit, an applicant shall furnish the local building official with a copy of the inspection statement demonstrating the water supply has been inspected, sampled (when applicable), and approved by the district or local health department.

§ 1.8. Administration of regulations.

These regulations are administered by the following:

A. State Board of Health.

The State Board of Health, hereinafter referred to as the board, has the responsibility to promulgate, amend, and repeal regulations necessary to ensure the proper construction and location of private wells.

B. State Health Commissioner.

The State Health Commissioner, hereinafter referred to as the commissioner, is the chief executive officer of the State Department of Health. The commissioner has the authority to act, within the scope of regulations promulgated by the board, and for the board when it is not in session. The commissioner may delegate his powers

under these regulations in writing to any subordinate, with the exception of (i) his power to issue variances under § 32.1-12 of the Code of Virginia and § 2.7 of these regulations, (ii) his power to issue orders under § 32.1-26 of the Code of Virginia and §§ 2.4 and 2.5 B of these regulations and (iii) the power to revoke permits or inspection statements under § 2.16 of these regulations, which may only be delegated pursuant to § 32.1-22.

The commissioner has final authority to adjudicate contested case decisions of subordinates delegated powers under this section prior to appeal of such case decisions to the circuit court.

C. State Department of Health.

The State Department of Health hereinafter referred to as department is designated as the primary agent of the commissioner for the purpose of administering these regulations.

D. District or local health departments.

The district or local health departments are responsible for implementing and enforcing the regulatory activities required by these regulations.

§ 1.9. Right of entry and inspections.

In accordance with the provisions of §§ 32.1-25 and 32.1-176.6 of the Code of Virginia, the commissioner or his designee shall have the right to enter any property to ensure compliance with these regulations.

PART II. PROCEDURAL REGULATIONS.

Article 1. Procedures.

§ 2.1. Compliance with the Administrative Process Act.

The provisions of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) shall govern the promulgation and administration of these regulations and shall be applicable to the appeal of any case decision based upon these regulations.

§ 2.2. Powers and procedures of regulations not exclusive.

The commissioner may enforce these regulations through any means lawfully available.

§ 2.3. Effective date of regulations.

The effective date of these regulations is September 1, 1990. *Amendment number 1 is effective, 1992.*

§ 2.4. Emergency order.

If an emergency exists the commissioner may issue an

emergency order as is necessary for preservation of public health, safety, and welfare or to protect ground water resources. The emergency order shall state the reasons and precise factual basis upon which the emergency order is issued. The emergency order shall state the time period for which it is effective. Emergency orders will be publicized in a manner deemed appropriate by the commissioner. The provisions of §§ 2.5 C and 2.5 D shall not apply to emergency orders issued pursuant to this section.

§ 2.5. Enforcement of regulations.

A. Notice.

Subject to the exceptions below, whenever the commissioner or the district or local health department has reason to believe a violation of any of these regulations has occurred or is occurring, the alleged violator shall be notified. Such notice shall be made in writing, shall be delivered personally or sent by certified mail, shall cite the regulation or regulations that are allegedly being violated, shall state the facts which form the basis for believing the violation has occurred or is occurring, shall include a request for a specific action by the recipient by a specified time and shall state the penalties associated with such violation. When the commissioner deems it necessary, he may initiate criminal prosecution or seek civil relief through mandamus or injunction prior to giving notice.

B. Orders.

Pursuant to the authority granted in § 32.1-26 of the Code of Virginia, the commissioner may issue orders to require any owner, or other person, to comply with the provisions of these regulations. The order shall be signed by the commissioner and may require:

1. The immediate cessation and correction of the violation;
2. Appropriate remedial action to ensure that the violation does not recur;
3. The submission of a plan to prevent future violations to the commissioner for review and approval;
4. The submission of an application for a variance; ~~and~~ or
5. Any other corrective action deemed necessary for proper compliance with the regulations.

C. Hearing before the issuance of an order.

Before the issuance of an order described in § 2.5 B, a hearing must be held, with at least 30 days notice by certified mail to the affected owner or other person of the time, place and purpose thereof, for the purpose of

adjudicating the alleged violation or violations of these regulations. The procedures at the hearing shall be in accordance with § 2.8 A or B of the regulations and with §§ 9-6.14:11 through 9-6.14:14 of the Code of Virginia.

D. Order; when effective.

All orders issued pursuant to § 2.5 B shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the owner or person violating these regulations. Violation of an order is a Class 1 misdemeanor. See § 32.1-27 of the Code of Virginia.

E. Compliance with effective orders.

The commissioner may enforce all orders. Should any owner or other person fail to comply with any order, the commissioner may:

1. Apply to an appropriate court for an injunction or other legal process to prevent or stop any practice in violation of the order;
2. Commence administrative proceedings to suspend or revoke the construction permit;
3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy; or
4. Request the ~~Commonwealth~~ Commonwealth's Attorney to bring a criminal action.

F. Not exclusive means of enforcement.

Nothing contained in § 2.4 or § 2.5 shall be interpreted to require the commissioner to issue an order prior to *commencing administrative proceedings* or seeking enforcement of any regulations or statute through an injunction, mandamus or criminal prosecution.

§ 2.6. Suspension of regulations during disasters.

If in the case of a man-made or natural disaster, the commissioner finds that certain regulations cannot be complied with and that the public health is better served by not fully complying with these regulations, he may authorize the suspension of the application of the regulations for specifically affected localities and institute a provisional regulatory plan until the disaster is abated.

§ 2.7. Variances.

Only the commissioner or the deputy commissioners may grant a variance to these regulations. (See §§ 32.1-12 and 32.1-22 of the Code of Virginia and § 1.8 B of these regulations). The commissioner or the deputy commissioners shall follow the appropriate procedures set forth in this subsection in granting a variance.

Proposed Regulations

A. Requirements for a variance.

The commissioner may grant a variance if a thorough investigation reveals that the hardship imposed, ~~which may be economic~~, by these regulations outweighs the benefits that may be received by the public. Further, the granting of such a variance shall not subject the public to unreasonable health risks or jeopardize ground water resources.

B. Application for a variance.

Any owner who seeks a variance shall apply in writing within the time period specified in § 2.11 B. The application shall be signed by the owner, addressed and sent to the commissioner at the State Department of Health in Richmond. The application shall include:

1. A citation to the regulation from which a variance is requested;
2. The nature and duration of the variance requested;
3. Any relevant analytical results including results of relevant tests conducted pursuant to the requirements of these regulations;
4. Statements or evidence why the public health and welfare as well as the ground water resources would not be degraded if the variance were granted;
5. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare or ground water resources;
6. Other information, if any, believed pertinent by the applicant; and
7. Such other information as the district or local health department or commissioner may require.

C. Evaluation of a variance application.

1. The commissioner shall act on any variance request submitted pursuant to § 2.7 B within 60 calendar days of receipt of the request.
2. In the evaluation of a variance application, the commissioner shall consider the following factors:
 - a. The effect that such a variance would have on the construction, location, or operation of the private well;
 - b. The cost and other economic considerations imposed by this requirement;
 - c. The effect that such a variance would have on protection of the public health;

d. The effect that such a variance would have on protection of ground water resources; and

e. Such other factors as the commissioner may deem appropriate.

D. Disposition of a variance request.

1. The commissioner may deny any application for a variance by sending a denial notice to the applicant by certified mail. The notice shall be in writing and shall state the reasons for the denial.

2. If the commissioner proposes to grant a variance request submitted pursuant to § 2.7 B, the applicant shall be notified in writing of this decision. Such notice shall identify the variance, private well covered, and shall specify the period of time for which the variance will be effective. The effective date of a variance shall be as stated in the variance.

3. No owner may challenge the terms or conditions set forth in the variance after 30 calendar days have elapsed from the effective date of the variance.

E. Posting of variances.

All variances granted to any private wells are transferable *from owner to owner* unless otherwise stated. Each variance shall be attached to the permit to which it is granted. Each variance is revoked when the permit to which it is attached is revoked.

F. Hearings on disposition of variances.

Subject to the time limitations specified in § 2.11, hearings on denials of an application for a variance or on challenges to the terms and conditions of a granted variance may be held pursuant to § 2.8 A or § 2.8 B, except that informal hearings under § 2.8 A shall be held by the commissioner or his designee.

§ 2.8. Hearing types.

Hearings before the commissioner or the commissioner's designees shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved.

A. Informal hearings.

An informal hearing is a meeting with a district or local health department with the district or local health director presiding and held in conformance with § 9-6.14:11 of the Code of Virginia. The district or local health department shall consider all evidence presented at the meeting which is relevant to the issue in controversy. Presentation of evidence, however, is entirely voluntary. The district or local health department shall have no subpoena power. No verbatim record need be taken at the informal hearing. The local or district health director shall review the facts.

presented and based on those facts render a decision. A written copy of the decision and the basis for the decision shall be sent to the appellant within 15 work days of the hearing, unless the parties mutually agree to a later date in order to allow the department to evaluate additional evidence. If the decision is adverse to the interests of the appellant, an aggrieved appellant may request an adjudicatory hearing pursuant to § 2.8 B *below*.

B. Adjudicatory hearing.

The adjudicatory hearing is a formal, public adjudicatory proceeding before the commissioner, or a designated hearing officer, and held in conformance with § 9-6.14:12 of the Code of Virginia. An adjudicatory hearing includes the following features:

1. Notice. Notice which states the time and place and the issues involved in the prospective hearing shall be sent to the owner or other person who is the subject of the hearing. Notice shall be sent by certified mail at least 15 calendar days before the hearing is to take place.
2. Record. A record of the hearing shall be made by a court reporter. A copy of the transcript of the hearing, if transcribed, will be provided within a reasonable time to any person upon written request and payment of the cost.
3. Evidence. All interested parties may attend the hearing and submit oral and documentary evidence and rebuttal proofs, expert or otherwise, that are material and relevant to the issues in controversy. The admissibility of evidence shall be determined in accordance with § 9-6.14:12 of the Code of Virginia.
4. Counsel. All parties may be accompanied by and represented by counsel and are entitled to conduct such cross examination as may elicit a full and fair disclosure of the facts.
5. Subpoena. Pursuant to § 9-6.14:13 of the Code of Virginia, the commissioner or hearing officer may issue subpoenas on behalf of himself or any person or owner for the attendance of witnesses and the production of books, papers or maps. Failure to appear or to testify or to produce documents without adequate excuse may be reported by the commissioner to the appropriate circuit court for enforcement.
6. Judgment and final order. The commissioner may designate a hearing officer or subordinate to conduct the hearing as provided in § 9-6.14:12 of the Code of Virginia, and to make written recommended findings of fact and conclusions of law to be submitted for review and final decision by the commissioner. The final decision of the commissioner shall be reduced to writing and will contain the explicit findings of fact upon which his decision is based. Certified copies of

the decision shall be delivered to the owner affected by it. Notice of a decision will be served upon the parties and become a part of the record. Service may be by personal service or certified mail return receipt requested.

§ 2.9. Request for hearing.

A request for an informal hearing shall be made by sending the request in writing to the district or local health department. A request for an adjudicatory hearing shall be made in writing and directed to the commissioner at the State Department of Health in Richmond. Requests for hearings shall cite the reason(s) for the hearing request and shall cite the section(s) of these regulations involved.

§ 2.10. Hearing as a matter of right.

Any owner or other person whose rights, duties, or privileges have been, or may be affected by any decision of the board or its subordinates in the administration of these regulations shall have a right to both informal and adjudicatory hearings. The commissioner may require participation in an informal hearing before granting the request for a full adjudicatory hearing. Exception: No person other than an owner shall have the right to an adjudicatory hearing to challenge the issuance of either a construction permit or inspection statement unless the person can demonstrate at an informal hearing that the minimum standards contained in these regulations have not been applied and that he will be injured in some manner by the issuance of the permit or that ground water resources will be damaged by the issuance of the permit.

§ 2.11. Appeals.

Any appeal from a denial of a construction permit for a private well must be made in writing and received by the department within 60 days of the date of the denial.

A. Any request for hearing on the denial of an application for a variance pursuant to § 2.7 D.1 must be made in writing and received within 60 days of receipt of the denial notice.

B. Any request for a variance must be made in writing and received by the department prior to the denial of the private well permit, or within 60 days after such denial.

C. In the event a person applies for a variance within the 60-day period provided by subsection B above, the date for appealing the denial of the permit, pursuant to subsection A above, shall commence from the date on which the department acts on the request for a variance.

D. Pursuant to the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) an aggrieved owner may appeal a final decision of the commissioner to an appropriate circuit court.

Proposed Regulations

§ 2.12. Permits and inspection statement; general.

All private wells shall be constructed and located in compliance with the requirements as set forth in these regulations.

A. Except as provided in § 2.12 B below, after the effective date of these regulations, no person shall construct, alter, rehabilitate, or extend a private well, or allow the construction, alteration, rehabilitation, or extension of a private well, without a written construction permit from the commissioner. Conditions may be imposed on the issuance of any permit and no private well shall be constructed or modified in violation of those conditions. The replacement of a well pump, or the replacement of a well seal or cap with an equivalent well seal or cap, shall not be considered a well modification.

B. No permit shall be required for the construction, operation, or abandonment of dewatering wells. Furthermore, dewatering wells are exempted from the construction requirements found in § 3.7 of these regulations. All dewatering wells shall be abandoned within 60 days of construction. Abandonment in this case means the removal of the well point, well casing, screening, and other appurtenances associated with the construction and operation of the well.

C. Except as provided in § ~~2.19~~ § 2.20, no person shall place a private well in operation, or cause or allow a private well to be placed in operation, without obtaining a written inspection statement pursuant to §§ ~~2.18~~ 2.19 and ~~2.20~~ 2.21.

D. Except as provided in §§ ~~2.16~~ and 2.17 and 2.18, construction permits for a private well shall be deemed valid for a period of 54 months from the date of issuance.

§ 2.13. Procedures for obtaining a construction permit for a private well.

Construction permits are issued by the authority of the commissioner. All requests for a private well construction permit shall be by written application, signed by the owner or his agent, and shall be directed to the district or local health department. All applications shall be made on an application form provided by the district or local health department and approved by the commissioner.

An application shall be deemed completed upon receipt by the district or local health department of a signed and dated application, together with the appropriate fee, containing the following information:

1. The property owner's name, address, and telephone number;
2. The applicant's name, address, and phone number (if different from subdivision 1 above);
3. A statement signed by the property owner, or his

agent, granting the Health Department access to the site for the purposes of evaluating the suitability of the site for a well and allowing the department access to inspect the well after it is installed;

4. A site plan showing the proposed well site, property boundaries, accurate locations of actual or proposed sewage disposal systems, recorded easements, and other sources of contamination within 200 feet of the proposed well site, and at the option of the applicant a proposed well design; and

5. When deemed necessary because of geological or other natural conditions, plans and specifications detailing how the well will be constructed.

§ 2.14. Issuance of the construction permit.

A construction permit shall be issued to the owner by the commissioner no later than 60 days after receipt of a complete and approvable application submitted under § 2.13. *If applicable, the applicant shall comply with § 2.22 prior to issuance of the permit.*

§ 2.15. Emergency procedures.

Applications for replacement wells that meet the definition of an emergency well replacement (§ 1.1) shall have priority over normal applications for private well permits. Emergency procedures are as follows:

A. Drinking water wells.

In the event a private drinking water well has failed and must be replaced, the local health department will conduct a sanitary survey of the property and surrounding area to determine the most suitable location. If a site is found that meets the minimum site requirements of these regulations, including the minimum separation distances contained in Table 3.1 and § 3.4 F, the local health department will issue a permit for that site. If a site cannot be located that meets the minimum separation distances listed in Table 3.1 and § 3.4 F, the local health department shall identify a site that complies with the minimum separation distances to the greatest extent possible. However, the replacement well shall not be located closer to any source of contamination than the existing well it is replacing. Replacement drinking water wells must meet the sampling requirements of §§ 3.3 D and E.

B. Heat pump wells or commercially dependent wells.

If a heat pump well or commercially dependent well must be replaced, the applicant shall propose a replacement site based on the technical requirements of the heat pump system or commercial establishment. The local health department will conduct a sanitary survey of the property and surrounding area to determine if the site meets the minimum site requirements of these regulations including the minimum separation distances contained

Table 3.1 and § 3.4 F. If the site meets the minimum requirements of the regulations, the local health department will issue a permit for that site. If a site cannot be located that meets the minimum separation distances listed in Table 3.1 and § 3.4 F, the local health department shall identify a site that complies with the minimum separation distances to the greatest extent possible. However, the replacement well shall not be located closer to any source of contamination than the existing well it is replacing. If the replacement heat pump well or commercially dependent well must be placed closer to a sewage disposal system (but no closer than the existing well it is replacing) the well shall be sampled for fecal coliforms. If fecal coliforms are present in the sample and further investigation reveals that the groundwater is contaminated, the well shall be abandoned.

§ 2-15. § 2.16. Denial of a construction permit.

If it is determined that the proposed design is inadequate or that site, geological, hydrological, or other conditions exist that do not comply with these regulations or would preclude the safe and proper operation of a private well system, or that the installation of the well would create an actual or potential health hazard or nuisance, or the proposed design would adversely impact the ground water resource, the permit shall be denied and the owner shall be notified in writing, by certified mail, of the basis for the denial. The notification shall also state that the owner has the right to appeal the denial.

§ 2-16. § 2.17. Revocation of construction permits and inspection statements.

The commissioner may revoke a construction permit or inspection statement for any of the following reasons:

1. Failure to comply with the conditions of the permit;
2. Violation of any of these regulations for which no variance has been issued;
3. Facts become known which reveal that a potential health hazard would be created or that the ground water resources may be adversely affected by allowing the proposed well to be installed or completed.

§ 2-17. § 2.18. Voidance of construction permits.

Null and void. All well construction permits are null and void when (i) conditions such as house location, sewage system location, sewerage system location, topography, drainage ways, or other site conditions are changed from those shown on the application, (ii) conditions are changed from those shown on the construction permit, or (iii) more than 54 months elapse from the date the permit was issued. Reapplication for the purposes of having an expired permit reissued shall be the responsibility of the owner, and such reapplication shall be handled as an initial application and comply fully with § 2.13.

§ 2-18. § 2.19. Statement required upon completion of construction.

Upon completion of the construction, alteration, rehabilitation or extension of a private well, the owner or agent shall submit to the district or local health department a statement, signed by the contractor, upon the form set out in Appendix IV, that the well was installed and constructed in accordance with the permit, and further that the well complies with all applicable state and local regulations, ordinances and laws.

§ 2-19. § 2.20. Inspection and correction.

No well shall be placed in operation, except for the purposes of testing the mechanical soundness of the system, until inspected by the district or local health department, corrections made if necessary, and the owner has been issued an inspection statement by the district or local health department.

§ 2-20. § 2.21. Issuance of the inspection statement.

Upon satisfactory completion of the requirements of §§ 2-18, 2.19, 2.20, 3.3, 3.9 and 3.10, the commissioner shall issue an inspection statement to the owner. The issuance of an inspection statement does not denote or imply any warranty or guarantee by the department that the private well will function for any specified period of time. It shall be the responsibility of the owner or any subsequent owner to maintain, repair, replace, or to comply with the requirements to abandon any private well.

§ 2.22. Requirement for easement.

Whenever a private well subject to these regulations is proposed to be installed on property other than the owner's, an easement in perpetuity shall be recorded with the clerk of the circuit court prior to issuance of a construction permit. The easement shall be of sufficient area to permit access, construction, placement of the water line, and maintenance of the well.

PART III. DESIGN AND CONSTRUCTION CRITERIA.

Article 1. General Requirements.

§ 3.1. General.

1. These regulations do not apply to private wells constructed, altered, rehabilitated or extended prior to the effective date of these regulations unless the well construction is modified or expanded after the effective date of these regulations.

2. The class of well to be constructed shall be determined by the local or district health department or the division.

Proposed Regulations

§ 3.2. Classes of water wells.

The following classes of private wells are established for purposes of these regulations. These classes are in addition to those established in the current Commonwealth of Virginia Waterworks Regulations and are intended for use for private well systems:

1. Class III - Private wells constructed to be used as a source of drinking water. There are three subclasses:

a. Class IIIA - Drilled wells in which the annular space around the casing is grouted to a minimum depth of 20 feet.

(1) The well shall be drilled and cased to a depth of at least 100 feet.

(2) The cased drill hole shall pass through at least 50 consecutive feet of ~~unconsolidated formation~~ *collapsing material* such as caving sand, gravel or other material that will collapse against the casing.

b. Class IIIB - Drilled wells in which the casing is installed to a minimum depth of 50 feet and the annular space around the casing is grouted to at least 50 feet.

c. Class IIIC - Drilled, bored, driven or jetted wells other than Class IIIA and Class IIIB.

2. Class IV - Private wells constructed for any purpose other than use as a source of drinking water.

§ 3.3. Water quality and quantity.

A. Class IV wells exempt.

The water quality requirements contained in this section apply only to Class III private wells. Class IV private wells (wells not constructed as a source of drinking water) are not subject to any quality requirements. These regulations contain no well yield requirements. See Appendix I for suggested minimum well yields for residential supplies.

B. Sample tap.

A sample tap shall be provided at or near the water entry point into the system so that samples may be taken directly from the source; this requirement may be met by utilizing the first tap on a line near where the plumbing enters the house (may be a hose bib), provided the tap precedes any water treatment devices.

C. Disinfection.

The entire water system including the well shall be disinfected prior to use (see § 3.9 and Appendix II).

D. Sampling.

After operating the well to remove any remaining disinfectant, a sample of the water from the well shall be collected for bacteriological examination. The sample may be collected by the owner, well driller, or other person in accordance with procedures established by the department and provided the sample is submitted to a private laboratory certified by the Department of General Services, Division of Consolidated Laboratory Services, for analysis.

E. Test interpretation.

A Class III private well shall be considered satisfactory if the water sample(s) test(s) negative for coliform organisms as described in subdivision 1 or 2 below. Sources with positive counts shall be tested as described in subdivision 3 below to determine if the water supply is amenable to continuous disinfection (chlorination). *Samples that exhibit confluent growth shall be considered inconclusive and another sample collected.*

1. Where a private well has no unsatisfactory water sample within the previous 12 months, one water sample which tests negative for coliform bacteria shall be considered satisfactory for coliform organisms.

2. Where a private well has had one or more positive water samples within the past 12 months for coliform bacteria, at least two consecutive samples must be collected and found negative for coliform organism before the supply may be considered satisfactory for coliform organisms. The samples must be collected at least 24 hours apart and the well may not be disinfected between samples.

3. When a private well does not test satisfactory for coliform organisms continuous disinfection may be recommended to the homeowner if the water supply is found to be suitable for continuous disinfection. A minimum of 10 samples shall be collected and tested for total coliform using an MPN methodology. The geometric mean of the samples shall be calculated and if the result is less than 100 organisms per 100 ml, the supply shall be considered satisfactory for continuous disinfection.

F. Water treatment.

If tests indicate that the water is unsatisfactory and no other approvable source is available, adequate methods of water treatment shall be applied and demonstrated to be effective pursuant to § 3.3 E 3 prior to the issuance of an inspection statement. The district or local health department shall be consulted when treatment is necessary.

§ 3.4. Well location.

A. Sanitary survey.

Any obvious source of toxic or dangerous substance

within 200 feet of the proposed private well shall be investigated as part of the sanitary survey by the district or local health department. Sources of contamination may include, but are not limited to, items listed in Table 3.1, abandoned wells, pesticide treated soils, underground storage tanks, and other sources of physical, chemical or biological contamination. If the source of contamination could affect the well adversely, and preventive measures are not available to protect the ground water, the well shall be prohibited. The minimum separation distance between a private well and structures, topographic features, or sources of pollution shall comply with the minimum distances shown in Table 3.1. Where the minimum separation distances for a Class IV well cannot be met, a permit may be issued under these regulations for a well meeting all of the criteria in §§ 3.6 and 3.7 and the separation distance requirements for either a Class IIIA or IIIB well, without deviation, and such Class IV well shall not be required to meet the water quality requirements of § 3.3.

Table 3.1
Distances (in feet) Between a Well
and a Structure or Topographic Feature

Structure or Topographic Feature	Class III		Class III A or B
	C	or IV	
Property line	±0		±0
Building Foundation	10		10
Building Foundation (Termite Treated)	100 ¹		50
Utility line	±0		±0
Sewer line	50		50 ²
House Sewer Line	50 ²		50 ²
Sewer Main	50 ³		50 ³
Sewerage System	50		50
Pretreatment System (e.g. Septic Tank or Aerobic Unit)	50		50
Sewage System (barnyard, hog lot or similar contaminant source)	±00		50
Sewage System or other contaminant source (e.g. underground storage tank, barnyard, hog lot, etc.)	100		50
Cemetery	100		50
Sewage Dump Station	100		50

¹ See § 3.4 D F.

² Private wells shall not be constructed within 50 feet of a sewer except as provided below. Where special construction and pipe materials are used in a sewer to provide adequate protection, a Class III A or B well may be located as close as 10 feet to the sewer line. Special construction constitutes sewer pipe meeting AWWA specifications, pressure tested (±0 feet of water) in place without leakage prior to backfilling. However, in no case shall a private well be placed within 10 feet of a sewer.

³ Private wells shall not be constructed within 50 feet of a house sewer line except as provided below. Where special construction and pipe materials are used in a house sewer line to provide adequate protection, and the well is cased and grouted to the water bearing

formation, all classes of private wells may be placed as close as 10 feet to the house sewer line. Special construction for house sewer lines constitutes cast iron pipe with water-tight caulked joints or mechanical joints using neoprene gaskets, or solvent welded Schedule 40 or better polyvinyl chloride (PVC) pipe. It is the responsibility of the applicant to provide documentation from the contractor that such construction and pipe materials have been installed. In no case shall a private well be placed within 10 feet of a house sewer line.

² Private wells shall not be constructed within 50 feet of a sewer main except as provided below. Where special construction and pipe materials are used in a sewer main to provide adequate protection, and the well is cased and grouted to the water bearing formation, Class III wells may be placed as close as 35 feet to a sewer main and Class IV wells as close as 10 feet. Special construction for sewer mains constitutes ductile iron pipe with water-tight joints, solvent welded Schedule 40 or better polyvinyl chloride (PVC) pipe (SDR - 35 plastic PVC with neoprene gaskets). It is the responsibility of the applicant to provide documentation from the local building official or sanitary district that such construction and pipe materials have been installed. In no case shall a Class III well be placed within 35 feet of a sewer main. Likewise, in no case shall a Class IV well be placed within 10 feet of a sewer main.

B. Downslope siting of wells from potential sources of pollution.

Special precaution shall be taken when locating a well within a 60 degree arc directly downslope from any part of any existing or intended onsite sewage disposal system or other known source of pollution, including, but not limited to, buildings subject to termite or vermin treatment, or used to store polluting substances or storage tanks or storage areas for petroleum products or other deleterious substances. The minimum separation distance shall be: (i) increased by 25 feet for every 5.0% of slope; or (ii) an increase shall be made to the minimum depth of grout and casing in the amount of five feet for every 5.0% of slope.

C. Sites in swampy areas, low areas, or areas subject to flooding.

No private well covered by these regulations shall be located in areas subject to the collection of pollutants such as swampy areas, low areas, or areas subject to flooding. Wells located in flood plains shall be adequately constructed so as to preclude the entrance of surface water during flood conditions. At a minimum, such construction will include extending the well terminus 18 inches above the annual flood level. Other requirements may be made as determined on a case by case basis by the division.

D. Property lines.

There is no minimum separation distance between a private well and a property line established by these regulations. The owner is responsible for establishing a separation distance from property lines such that the construction and location of the well will be on the owner's property and comply with any local ordinances.

E. Utility lines.

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There is no minimum separation distance between a private well and utility lines (electric, gas, water, cable, etc.). The minimum separation distance may, however, be established by the individual utility company or local ordinance.

D. F. Pesticide and termite treatment.

No Class III C or Class IV private well shall be placed closer than 100 feet to a building foundation that has been chemically treated with any termiticide or other pesticide except as provided below. Further, no termiticides or other pesticides shall be applied within five feet of the water supply trench. A Class III C or Class IV private well may be placed as close as 50 feet to a chemically treated foundation if special precautions are or have been taken. Special precautions include the application of pesticides by pouring or spraying on the ~~foundation excavation~~ *building foundation area*, or the removal and treatment of soil at a site 50 feet or more from the well and then backfilling with the treated soil. *A Class IIIA, Class IIIB, Class IIIC, or Class IV well may be placed as close as 25 feet to a chemically treated foundation if the following criteria are met:*

1. The aquifer from which the water is withdrawn must be a confined aquifer (i.e., there must be an impermeable stratum overlying the water bearing formation).

2. The well must be cased and grouted into the confining layer immediately above the water bearing formation. When water bearing formations are encountered at depths greater than 20 feet, the well shall be cased and grouted to the confining layer immediately above the water bearing formation from which water is withdrawn.

3. The material overlaying the confined aquifer must be collapsing material.

G. Exception for closed-loop ground-source heat pump wells.

Closed-loop ground-source heat pump wells, depending upon construction, may not have to comply with the minimum separation distances for Class IV wells listed in Table 3.1. If the well is grouted 20 feet, the minimum separation distances must comply with those listed for Class IV wells. If the well is grouted a minimum of 50 feet, the separation distances shall be those listed for Class IIIA or IIIB wells. If the well is grouted the entire depth of the well, the well does not have to comply with the minimum separation distances contained in Table 3.1.

§ 3.5. Site protection.

A. No objects, articles, or materials of any kind which are not essential to the operation of the well shall be placed or stored in a well house, on the well head or well pump or water treatment system, or within close proximity

to them.

B. The minimum distance between any well subject to these regulations and any property line shall be 10 feet.

C. B. Fencing of an area around the well, or the placement of other barriers or restrictions, may be required as a condition of the permit under certain circumstances, such as to prohibit livestock access to the well head or to prohibit vehicles from damaging or polluting the area around the well head.

D. C. The area around the well shall be graded to divert surface water away from the well.

§ 3.6. Materials.

A. General.

All materials used in private wells shall have long-term resistance to corrosion and sufficient strength to withstand hydraulic, lateral and bearing loads.

B. Casing.

Materials used for casing shall be watertight and shall consist of wrought iron, concrete tile, clay tile, steel, stainless steel or plastic, all designed for water well use or other suitable materials as determined by the division on a case by case basis.

1. Driven casings shall consist of ductile iron, steel or stainless steel and shall be equipped with a suitable drive boot.

2. Casings used for Class IIIA or IIIB wells shall be steel, stainless steel or plastic.

C. Screens.

Where utilized, screens shall be constructed of stainless steel, plastic or other suitable materials as determined by the division on a case by case basis. Screens shall be constructed of materials which will not be damaged by any chemical action of the ground water or future cleaning operations. Additionally, screens shall be constructed of materials which will not degrade ground water quality.

D. Joints.

Joints shall be watertight and mechanically sound. Welded joints shall have smooth interior surfaces and shall be welded in accordance with acceptable welding practice.

E. Gravel.

Gravel utilized for gravel packed wells shall be uniformly graded, cleaned, washed, disinfected and of a suitable size.

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§ 3.7. Construction; general.

A. Casing.

1. Class IIIA wells shall be cased to a depth of at least 100 feet.
2. Class IIIB wells shall be cased to a depth of at least 50 feet.
3. Except as provided in subdivisions a through d e below, all Class IIIC and IV wells shall be cased to a minimum depth of 20 feet or terminated not less than one foot in bedrock when bedrock is encountered at a depth less than 20 feet.

a. When in ~~unconsolidated~~ *collapsing* material, the casing shall terminate in the aquifer but in no instance be less than 20 feet.

b. Where an aquifer is encountered at less than 20 feet, Class IV wells may be cased to within one foot of the water bearing strata. In the instance of Class IV wells the intent of these regulations is to protect ground water quality, and not to ensure a potable water supply.

c. Alternate casing depths may be accepted for bored wells when the only aquifer lies between 11 and 20 feet provided the casing is placed within one foot of the aquifer and must not be less than 10 feet in depth from the ground surface.

d. Class III C driven wells shall be cased to the water bearing strata; however, in no case less than 10 feet. No minimum casing requirements apply to Class IV driven wells except that in order to protect ground water they shall be capable of meeting the minimum grouting requirements as described in § 3.7 C 4 5 e.

e. *Closed-loop ground-source heat pump wells do not have to be cased.*

4. All private well casings shall be extended at least 12 inches above ground or 12 inches above a concrete floor in well house with a gravity flow drain. *The following wells are exempted from this requirement.*

a. *Drilled shallow well suction pump systems that will not operate unless a vacuum is maintained. The casings for these wells are also the suction lines through which water is drawn.*

b. *Deep well ejector pump systems that utilize a casing adaptor inside the well casing and must maintain a vacuum to operate.*

c. *Closed-loop ground-source heat pump wells.*

d. *Heat pump return wells that are completely*

sealed. The location of these wells must be permanently marked for easy location in the future.

5. All steel casings shall meet or exceed the material specifications found in Appendix III.

6. No plastic well casing shall be installed which will exceed 80% of its RHCP (resistance to hydraulic collapse pressure). When experience has shown, in the division's opinion, that the prevailing geologic conditions are subject to collapse or shifting, or where heavy clay or unstable backfill materials occur, plastic well casings may not exceed 50% of the RHCP rating. It shall be the responsibility of the well driller to submit calculations to the division demonstrating that individual well casings do not exceed these ratings.

B. Screens.

When used for the prevention of entry of foreign materials, screens shall be free of rough edges, irregularities, or other defects. A positive watertight seal between the screen and the casing shall be provided when appropriate.

C. Grouting.

1. General. All private wells shall be grouted. ~~A neat cement grout is preferable over any other grout mixture.~~ It is preferred that no openings are made in the side of the well casing.

2. Purpose. The annular space between the casing and well bore is one of the principal avenues through which undesirable water and contaminants may gain access to a well. *The goal of grouting a well is to preclude the entrance of undesirable water and contaminants.* Therefore, the annular space shall be filled with a neat cement grout, or a mixture of bentonite and neat cement.

3. Specifications. Neat cement grout shall consist of cement and water with not more than six gallons of water per sack (94 pounds) of cement. Bentonite clay may be used in conjunction with neat Portland cement to form a grouting mixture. The bentonite used must be specifically recommended by the manufacturer as being suitable for use as a well grout material and cannot exceed 6.0% by weight of the mixture. Exception: (i) When exceptional conditions require the use of a less fluid grout, to bridge voids, a mixture of cement, sand and water in the proportion of not more than two parts by weight of sand to one part of cement with not more than six gallons of clean water per bag of cement may be used if approved by the district or local health department, or (ii) for bored wells only, a concrete (1-1-2 mix with all aggregates passing a 1/2 inch sieve) grout with not more than six gallons of clean water per bag of cement may be used provided a minimum three-inch annular space is available and its use approved by the district or local

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health department.

In cases where an open borehole has been drilled below the depth to which the casing is to be grouted, the lower part of the hole must be backfilled, or a packer must be set in the hole, to retain the slurry at the desired depth. Backfilling the hole with gravel and capping with sand is an acceptable practice. Material ordinarily sold as plaster or mortar sand is usually satisfactory; more than half the sand should be of grain sizes between 0.012 inches and 0.024 inches.

4. Other materials. Other grouting materials may be approved by the division on a case by case basis. Review and approval shall be based on whether the proposed material can consistently be expected to meet the intent of grouting expressed in § 3.7 C 2. The proposed material must be an industry acceptable material used for the purpose of grouting water wells.

4. 5. Depth.

a. All Class IIIA wells shall be grouted to a minimum depth of 20 feet.

b. All Class IIIB wells shall be grouted to a minimum depth of 50 feet.

c. All Class IIIC and Class IV wells shall be grouted to a minimum depth of 20 feet. When the casing depth is equal to or greater than 20 feet. When the casing depth is less than 20 feet, the casing shall be grouted in accordance with § 3.7 C above, from the lower terminus of the casing to the surface.

d. Alternate grouting depths may be accepted for bored wells when the only aquifer suitable for a private well lies between 11 and 20 feet provided the grouting shall terminate at least one foot above the aquifer but must not be less than 10 feet in depth from the ground surface.

e. Driven wells shall be grouted to a minimum depth of five feet by excavating an oversize hole at least four inches in diameter larger than the casing and pouring an approved grout mixture into the annular space.

5. 6. Installation. Grout shall be installed by means of a grout pump or tremie pipe from the bottom of the annular space upward in one operation until the annular space is filled, whenever the grouting depth exceeds 20 feet. Pouring of grout is acceptable for both drilled and bored wells whenever grouting depth does not exceed 20 feet. Grouting shall be brought to the ground surface and flared to provide a one foot radius around the casing at least six inches thick. When an outer casing is necessary to construct a new well, where possible, the outer casing shall be pulled simultaneously with the grouting operation.

6. 7. Annular space. The clear annular space around the outside of the casing and the well bore shall be at least 1.5 inches on all sides except for bored wells which shall have at least a 3-inch annular space.

D. Additional casing and grouting.

When a well is to be constructed within 200 feet of a subsurface sewage disposal system, which has been or is proposed to be installed at a depth greater than five feet below the ground surface, the casing and grouting of the water well shall be increased to maintain at least a 15-foot vertical separation between the trench bottom and the lower terminus of the casing and grouting.

E. Well head.

1. General. No open wells or well heads or unprotected openings into the interior of the well shall be permitted. Prior to the driller leaving the well construction site, the owner shall have the driller protect the bore hole by installing a cover adequate to prevent accidental contamination.

2. Mechanical well seals. Mechanical well seals (either sanitary well seals or pitless adapters) shall be used on all wells and shall be water and air tight except as provided in § 3.7 F 4.

3. Other. Wells greater than eight inches in diameter shall be provided with a watertight overlapping (shoebox) type cover, constructed of reinforced concrete or steel.

F. Appurtenances passing through casing.

1. General. All openings through well casings shall be provided with a positive water stop.

2. Pitless well adapters. Pitless well adapters shall be subject to approval by the division. All pitless adapters shall be installed according to the manufacturers recommendations.

3. Sanitary well seals. Sanitary well seals shall be subject to approval by the division. All sanitary well seals shall be installed according to the manufacturers recommendations.

4. Venting. Venting, where necessary as determined by the district health department, shall be provided in such a manner as to allow for the passage of air, but not water, insects, or foreign materials, into the well.

§ 3.8. Observation, monitoring, and remediation wells.

A. Except as provided in §§ 3.8 B and 3.8 C below, observation and monitoring wells are exempted from these regulations.

B. Observation or monitoring wells shall be constructed

in accordance with the requirements for private wells if they are to remain in service after the completion of the ground water study.

C. Observation or monitoring wells shall be properly abandoned in accordance with § 3.11 within 90 days of cessation of use.

§ 3.9. Disinfection.

All Class III private wells shall be disinfected before placing the well(s) in service. Disinfection shall be accomplished by maintaining a 100 mg/l solution of chlorine in the well for 24 hours utilizing the dosage rates set forth in Appendix II.

§ 3.10. Information to be reported.

A copy of a Uniform Water Well Completion Report (see Appendix IV) shall be provided to the district or local health department within 30 days of the completion of the well or completion of alterations thereto.

§ 3.11. Well abandonment.

A. Well abandonment is governed jointly by the State Water Control Board and the Department of Health pursuant to § 62.1-44.92(6) of the Ground Water Act of 1973. In addition, the abandonment of any private well governed by these regulations, or any private well abandoned as a condition of a permit issued under these regulations, shall be administered by the Department of Health in conformance with this section.

B. A temporarily abandoned well shall be sealed with a water-tight cap or well head seal. Such a well shall be maintained so that it will not be a source or channel for contamination to ground water during temporary abandonment.

C. *Permanent abandonment with the intent to place sources of contamination closer than the minimum separation distance listed in Table 3.1.*

The object of proper permanent abandonment is to prevent contamination from reaching ground water resources via the well. *If the intent is to abandon the well so that sources of contamination can be placed closer than the minimum separation distances contained in Table 3.1, the well shall be abandoned in the following manner:*

1. All casing material may be salvaged.
2. Before the well is plugged, it shall be checked from land surface to the entire depth of the well to ascertain freedom from obstructions that may interfere with plugging (sealing) operations.
3. The well shall be thoroughly chlorinated prior to plugging (sealing).

4. Bored wells shall be completely filled with cement or bentonite grout.

5. Wells constructed in *unconsolidated formations collapsing material* shall be completely filled with cement grout or clay slurry by introduction through a pipe initially extending to the bottom of the well. Such pipe shall be raised, but remain submerged in grout, as the well is filled.

6. Wells constructed in consolidated rock formations or which penetrate zones of consolidated rock may be filled with sand or gravel opposite the zones of consolidated rock. The top of the sand or gravel fill shall be at least five feet below the top of the consolidated rock and at least 20 feet below land surface. The remainder of the well shall be filled with cement grout or clay slurry.

7. Other abandonment procedures may be approved by the division on a case by case basis.

8. Test and exploration wells shall be abandoned in such a manner as to prevent the well from being a channel for the vertical movement of water or a source of contamination to ground water.

D. Permanent abandonment with no intent to place sources of contamination closer than the minimum separation distance listed in Table 3.1.

If the intent is to abandon the well to seal the opening but there is no intent to place sources of contamination closer than the minimum separation distances contained in Table 3.1, the well shall be abandoned in the following manner:

1. All casing material may be salvaged.
2. Before the well is plugged, it shall be checked from land surface to the entire depth of the well to ascertain freedom from obstructions that may interfere with plugging (sealing) operations.
3. The well shall be thoroughly chlorinated prior to plugging (sealing).
4. Bored wells shall be filled with clean gravel or clean drilling spoil approved by the department to within 10 feet of the ground surface. The top 10 feet shall be filled with cement or bentonite grout. The ground surface around the well will be flared with cement or grout so that the apron extends a minimum of one foot beyond the outer edge of the original bore hole.
5. Wells constructed in *collapsing material* shall be completely filled with cement grout or clay slurry by introduction through a pipe initially extending to the bottom of the well. Such pipe shall be raised, but remain submerged in grout, as the well is filled.

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6. Wells constructed in noncollapsing rock formations or which penetrate zones of noncollapsing rock may be filled with sand or gravel opposite the zones of noncollapsing rock. The type of the sand or gravel fill shall be at least 5 feet below the top of the noncollapsing rock and at least 10 feet below land surface. The remainder of the well shall be filled with cement grout or clay slurry.

7. Other abandonment procedures may be approved by the division on a case by case basis.

8. Test and exploration wells shall be abandoned in such a manner as to prevent the well from being a channel for the vertical movement of water or a source of contamination of ground water.

Appendix I.

Recommended Well Yields for Residential Use Wells

All private wells should be capable of supplying water in adequate quantity for the intended usage. Failure to provide adequate capacity may cause intermittent flows and negative pressures which may cause contamination of the system through cross connections or other system deficiencies. All Class III wells should have a capacity to produce 150 gallons per bedroom per day and be capable of delivering a sustained flow of five gallons per minute per connection for 10 minutes. The system should be capable of providing at least 500 gallons per hour for at least one hour if lawns or other residential areas are to be irrigated. In general, residential use wells with yields less than 3 gallons per minute require additional storage to provide uninterrupted service during peak water use times.

Appendix II.

Chlorination Dosage Rates

Casing Diameter Inches Meas.)	Volume per 100 Feet in (Gallons)	70% Sodium Hypochlorite (Oz. Dry Wt.)	5% Sodium Hypochlorite (Liquid)
2	16	0.5	4 oz.
4	65	2	18 oz.
6	147	4	40 oz.
8	261	6	4.25 pts.
10	408	8	7 pts.
12	588	12	10 pts.
16	1045	20	2 gal.
20	1632	32	3.3 gal.
24	2350	48	4.67 gal.
30	3672	70	7.3 gal.
36	5288	101	10.5 gal.

Appendix III.

Well Casing Specifications Steel Casings

Nom. Size (inches)	Weight (lbs./ft.)	Thickness (inches)	External Diameter	Internal Diameter
4	10.79	.237	4.5	4.026
6	13.00	.188	8.625	6.25
8	24.70	.277	8.625	8.071

10 31.20 .279 10.75 10.192

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Case Management for the Elderly.
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 January 3, 1992.

(See Calendar of Events section for additional information)

Summary:

This proposal promulgates permanent regulations to supersede the existing emergency regulations of substantially the same policy.

The 1990 General Assembly directed the Long-Term Care Council, chaired by the Secretary of Health and Human Resources, to develop policy and implementation guidelines for a statewide Case Management System for Elderly Virginians. Appropriations were given to fund pilot projects in FY 92. In developing these pilot projects, the council was directed to consider the following principles adopted by the Subcommittee on Long-Term Care of the Joint Subcommittee on Health Care for All Virginians:

- all elderly citizens should be eligible for services on a sliding fee basis;
- the use of Medicaid funds should be optimized;
- case managers should serve as brokers for all private and public services in long-term care;
- the program should promote public/private partnerships;
- a uniform assessment tool which can be incorporated into a statewide data base should be used;
- the program should be responsive to varying local demands; and
- the most cost-effective forms of care should be used.

During early 1991, the Long-Term Care Council issued a Request for Proposals and three proposals were selected for funding during FY 92. These three pilots represent an urban area, a rural area and a pilot including both urban and rural areas.

Because the Subcommittee on Health Care for All Virginians directed that the pilot projects use Medicaid funding where feasible, this amendment to the State Plan for Medical Assistance is being submitted. The qualifications of the case manager are those appearing in the Request for Proposal (RFP) published by the Long-Term Care Council. The target group follows that of the RFP. In the emergency regulations, Medicaid was directed toward a more dependent group of individuals (dependent in 3 or more activities of daily living (ADL)) than the overall group specified in the RFP because of the large number of Medicaid eligible individuals age 60 and over in the geographic areas within the approved pilot programs. Because the state matching funds are limited, it was thought to be necessary to define the target population for Medicaid coverage more narrowly to ensure that Medicaid payments will not exceed the amount allotted to Medicaid from the funds appropriated for the pilots. However, experience during the first quarter of the pilot year has demonstrated a slower rate of enrollment than projected.

The only differences between the existing emergency regulation and this proposed permanent regulation are as follows. Individuals selected for this service must be functionally dependent in two ADLs rather than the three contained in the emergency regulation. Also, "transferring," the ability to move from a chair to the bed, for example, has been added as a functional activity in the list of activities of daily living. With these changes the proposed regulations will provide the same criteria for Medicaid as for non-Medicaid pilot program participants.

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.

D. 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. (Reserved.)

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§ 6. Case management for the elderly.

A. Target group.

Persons age 60 and over who have been screened through a Case Management Pilot Project approved by the Long-Term Care Council and found to be dependent in two or more of the following activities of daily living: (i) bathing, (ii) dressing, (iii) toileting, (iv) transferring, (v) continence, or (vi) eating.

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:

a. Fairfax County and the cities of Falls Church and Fairfax;

b. Planning Districts 1, 2, 3 (except for Washington County and the City of Bristol), 4, 17, 18, 20, 21, 22.

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.

1. *Assessment.* Determining client's service needs, which include psychosocial, nutritional and medical.

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, ensuring services are delivered, and periodically reassessing need to determine appropriate revisions to the case management plan of care.

E. Qualifications of providers.

To qualify as a provider of case management for the elderly, the provider of services must ensure that claims are submitted for payment only when the services were performed by case managers meeting these qualifications.

The case manager must possess a combination of work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities. The case manager must have these knowledge, skills, and abilities at the entry level which must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

1. Knowledge of:

a. Aging and the impact of disabilities and illnesses on aging;

b. Conducting client assessments (including psychosocial, health and functional factors) and their uses in care planning;

c. Interviewing techniques;

d. Consumers' rights;

e. Local human and health service delivery systems, including support services and public benefits eligibility requirements;

f. The principles of human behavior and interpersonal relationships;

g. Effective oral, written, and interpersonal communication principles and techniques;

h. General principles of record documentation;

i. Service planning process and the major components of a service plan.

2. Skills in:

a. Negotiating with consumers and service providers;

b. Observing, recording and reporting behaviors;

c. Identifying and documenting a consumer's needs for resources, services and other assistance;

d. Identifying services within the established services system to meet the consumer's needs;

e. Coordinating the provision of services by diverse public and private providers;

f. Analyzing and planning for the service needs of elderly persons.

3. Abilities to:

a. Demonstrate a positive regard for consumers and their families;

- b. Be persistent and remain objective;
- c. Work as a team member, maintaining effective inter- and intra-agency working relationships;
- d. Work independently, performing position duties under general supervision;
- e. Communicate effectively, verbally and in writing.
- f. Develop a rapport and to communicate with different types of persons from diverse cultural backgrounds;
- g. Interview.

4. Individuals meeting all the above qualifications shall be considered a qualified case manager; however, it is preferred that the case manager possess a minimum of an undergraduate degree in a human services field or be a licensed nurse. In addition, it is preferable that the case manager have two years of satisfactory experience in the human services field working with the elderly.

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.

H. Case management services to the elderly shall be limited to no more than four months without authorization from the Department of Medical Assistance Services.

DEPARTMENT OF MOTOR VEHICLES

Title of Regulation: VR 485-10-8401. Public Participation Guidelines. REPEALED.

Title of Regulation: VR 485-10-9101. Public Participation Guidelines for Regulation Development and Promulgation.

Statutory Authority: §§ 9-6.14:7.1 and 46.2-203 of the Code of Virginia.

Public Hearing Date: November 22, 1991 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

The Public Participation Guidelines for Regulation Development and Promulgation establish guidelines for receiving input and participation from interested citizens in the development of any regulations which the department proposes. The proposed regulations will repeal and replace the department's existing guidelines. The proposed guidelines include specific procedures for notifying and obtaining input from interested citizens, organizations, and affected groups and describes, in detail, the regulation development procedure. In addition, the proposed regulations more closely comply with changes in the procedures set out in the Administrative Process Act.

VR 485-10-9101. Public Participation Guidelines for Regulation Development and Promulgation.

§ 1. General purpose.

In developing any regulation it proposes, the Department of Motor Vehicles ("department") is committed to soliciting input and comment from interested citizens, professional associations, and industry representatives. Such input and participation will be actively solicited by the department pursuant to the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

Any person who is interested in participating in the regulation development process should notify the department in writing. Such notification of interest should be sent to the Commissioner, Department of Motor Vehicles, P. O. Box 27412, Richmond, Virginia 23269-0001.

§ 2. Identification of interested parties.

Prior to the development of any regulation, the department will identify persons whom it feels would be interested or affected by the proposal. The methods for identifying interested parties will include, but not be limited to, the following:

1. Obtain annually from the Secretary of the Commonwealth a list of all persons, groups, associations and others who have registered as lobbyists for the annual General Assembly session. This list will be used to identify groups which may be interested in the subject matter of the proposed regulation.

2. Utilize the statewide listing of business, professional, civic and charitable associations and societies in Virginia published by the State Chamber of Commerce to identify additional industry and professional associations which might be interested in the regulation.

3. Utilize internal administration mailing lists of persons, organizations, groups, and agencies that have

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expressed an interest in advising and assisting in the development of regulations or who have previously raised questions or expressed an interest in the subject matter under consideration pursuant to § 1, or through requests for formal rulings or administrative appeals. At the discretion of each administration, these lists may be maintained on a program specific basis or be of a general interest group. From time to time the lists will be updated to include any new interested parties.

§ 2. Notification of interested parties.

A. Generally.

The department will prepare a Notice of Intended Regulatory Action (Form RR01) ("Notice") prior to the development of any regulation. The notice will identify the subject matter and purpose for the development of the new regulation(s), will state the statutory authority under which they are promulgated, and will specify a time deadline for receipt of responses from persons interested in participating in the development process. The name, address and telephone number of an agency contact will also be included in the notice.

B. Dissemination of notice.

The methods for disseminating the notice to the public will include, but not be limited to, the following:

1. Send notice to individuals or groups identified in § 2 as interested or potentially affected parties.
2. Publish the notice in the Virginia Register of Regulations.
3. Request that industry, professional associations, and other groups to whom the notice is sent publish such notice in newsletters or journals or use any other means available to them to disseminate the notice to their memberships.
4. Invite participation from the general public through the publication of a Notice of Intent in the Richmond Times-Dispatch and, if necessary, in other general newspapers.
5. The notification process delineated in this section does not apply to emergency regulations, which are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act.

§ 4. Regulation development.

A. Response to notice.

After interested parties have responded to the notice, the department will analyze the level of interest. If sufficient interest exists, the department may schedule informal meetings prior to the development of any

regulation to determine the specific areas of interest or concern and to gather factual information relative to the subject matter of the regulation. Form RR06, Notice of Meetings, will be used for this purpose. Alternatively, the department may elect to request that persons who have responded to the notice submit written comments, concerns and suggestions relative to the proposed regulation.

B. Establishment of advisory committee.

When necessary, utilize a core, advisory committee comprised of appropriate department representatives, persons who have previously participated in public proceedings relative to similar subject matters, or selected individuals who responded to a Notice of Intended Regulatory Action, newsletter or special mailing. The committee will discuss the issues and make recommendations which will be considered in drafting regulations. Once the regulations have been developed, the committee will review them and continue to participate during the promulgation process as directed by the Administrative Process Act.

C. Preparation of working draft.

Subsequent to the initial public input on the development of any regulation, the department will develop a working draft of the proposed regulation. In certain instances where the technical nature of the subject matter merits, the department may request that industry or professional groups develop a working draft. A copy of this draft will be furnished to all persons who responded to the notice indicating an interest in the regulation and to those persons participating in the initial comment phase of the development process. Persons to whom a copy of the working draft is furnished will be invited to submit written comments on the draft. If the response warrants, additional informal meetings may be held to discuss the working draft.

D. Submission of proposed regulation submission package.

Upon the conclusion of the development process, the department will prepare a proposed regulation submission package for submission to the office of the Registrar of Regulations. The package will include:

1. Notice of Comment Period (Form RR02) (3 copies);
2. Proposed Regulations Transmittal Sheet (Form RR03) (3 copies);
3. A statement of basis, purpose, substance, issues and impact (2 copies);
4. A summary of the regulation (2 copies);
5. Double-spaced text of the proposed regulation (2 copies); and

6. Reporting forms used in administering the regulation, if any (2 copies).

Once the Registrar receives all the required documents and appropriate number of copies, the proposed regulation and summary will be published in the "Proposed Regulation" section of the Virginia Register.

At the same time that the regulations are filed with the Registrar's Office, the department will file Form RR09, Regulation Review Summary, and a copy of the proposed regulations to the Department of Planning and Budget and to the Governor's office.

The notice of comment period will appear in each issue of the Virginia Register until the public hearing date or 60-day written comments deadline has elapsed, whichever occurs last. The summary provided with the Notice of Comment Period form will be printed in a newspaper of general circulation published in the state capital and, in addition, similarly published in newspapers in localities particularly affected by the proposed regulations.

D. Review of proposed regulation after publication.

1. Agency review. The department will compare the published copy of the regulation with the agency copy. Corrections will be filed with the Registrar.

2. Legislative and gubernatorial review. During the 60-day notice of comment period, 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 the comments will be published in the Virginia Register. The department will respond to the Governor's comments pursuant to § 9-6.14:9.1 of the Code of Virginia.

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 Registrar and the promulgating agency. The department will respond to the objection pursuant to § 9-6.14:9.1 of the Code of Virginia.

E. Final regulations submission package.

When the notice of comment period has elapsed, the department may take action on the proposed regulations, and will again submit for publication the text of the regulation as adopted, explaining any substantial changes in the final regulation, along with an up-to-date basis, purpose, substance, issues and impact statement. A 30-day final adoption period will begin upon publication in the Virginia Register. The package will contain:

1. Final regulation transmittal sheet (Form RR04) (3 copies);
2. Statement of final agency action (2 copies);

3. Explanation of substantial changes;

4. Summary of public comments and agency's responses (2 copies);

5. Summary of regulation;

6. Statement of basis, purpose, substance, issues and impact (2 copies);

7. Double-spaced text of final regulation (2 copies); and

8. Reporting forms used in administering the final regulation, if any.

At the same time that the regulations are filed with the Registrar's office, the Department of Planning and Budget and the Governor's office will receive copies of the final regulations.

§ 5. Effective date.

The final regulation will become effective 30 days after it is published in the Virginia Register, or a later date, if specified. If there are gubernatorial or legislative objections, the procedures specified in the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, will be followed.

§ 6. Availability of final regulation.

The department will make available to the public copies of the adopted regulations, together with the summary of the public comments and the department's responses. The Governor's comments and the department's responses will also be available to the public. Copies of the final regulations will be sent to all interested parties who have specifically requested them.

§ 7. Forms.

The forms described herein may change from time to time. Copies of appropriate forms in current use will be attached to these guidelines and will be updated when necessary.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-33-01. Fee Requirements for Processing Applications.

Statutory Authority: §§ 63.1-25, 63.1-174.01, 63.1-196.5, and 63.1-202 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until January 4, 1992.

(See Calendar of Events section for additional information)

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Summary:

This regulation contains the requirements and procedures for licensees to follow in submitting the application processing fee which is to be submitted with all new and renewal applications. The following licensed facilities are affected by this regulation: (i) adult day care centers; (ii) homes for adults; (iii) child placing agencies; (iv) child caring institutions; (v) independent foster homes; (vi) child day care centers; (vii) family day care homes; (viii) family day care systems.

The following areas are addressed in the regulation: (i) fees are to be used for development and delivery of training for licensed facilities' staff; (ii) fees are to be collected at the time of processing all new and renewal applications; (iii) when a facility is eligible to receive a license for a period of more than 12 months, the required fee for that facility is based upon the length of the total licensure period; (iv) information in the new or renewal application packet will indicate whether the applicant is eligible to receive a license for a period beyond 12 months; and (v) a \$15 fee will be charged for checks which must be returned to the applicant because of insufficient funds.

VR 615-33-01. Fee Requirements for Processing Applications.

By act of the General Assembly and effective February 1, 1984, the Department of Social Services is authorized to charge fees for processing applications for licenses (§§ 63.1-174.01 and 63.1-196.5 of the Code of Virginia).

Fees will be charged to process all new or renewal applications for facilities or agencies for adults or children subject to licensure solely by the Department of Social Services; however, no fee will be charged directly following the issuance of a conditional license.

Such fees are to be used for the development and delivery of training for operators and staff of facilities or agencies for adults or children subject to licensure solely by the Department of Social Services. Fees are collected at the time of processing all new and renewal applications. No fee will be charged directly following the issuance of a conditional license.

When a facility is eligible to receive a license for a period of more than 12 months, the required fee for that facility will be based upon the length of the total licensure period. (Example: A facility's application processing fee, based upon capacity, might be \$105 for 12 months. If that facility were eligible to receive a license which was valid for 24 months, the fee would be \$210.)

Applicants shall use the following schedule of fees to determine the correct fee to pay for processing all applications.

Schedule of Fees

Capacity	1 - 12	\$14
Capacity	13 - 25	\$35
Capacity	26 - 50	\$70
Capacity	51 - 75	\$105
Capacity	76 - 200	\$140
Capacity	201 & up	\$200
Family Day Care Systems		\$70 (flat fee)
Child Placing Agencies		\$70 (flat fee)

Schedule of Fees

Capacity	1 year	2 years
1-12	\$ 14	\$ 28
13-25	\$ 35	\$ 70
26-50	\$ 70	\$140
51-75	\$105	\$210
76-200	\$140	\$280
201 & up	\$200	\$400
Family Day Care Systems (flat fee)	\$ 70	\$140
Child Placing Agencies (flat fee)	\$ 70	\$140

The fee shall be mailed with the application for a license. No application for a license will be considered complete unless it is accompanied by the correct fee. *Information in the new or renewal application packet will indicate whether the applicant is eligible to receive a license for a period beyond 12 months.*

The fee shall be paid by personal check, money order, or certified check, made payable to "Treasurer of Virginia."

A fee that is incorrect in amount or is made payable other than to the Treasurer of Virginia will be returned to the applicant. Otherwise, no fee will be returned or refunded for any reason.

A \$15 fee will be charged for checks which must be returned to the applicant because of insufficient funds.

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For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF CRIMINAL JUSTICE 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(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 Criminal Justice Services Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 240-02-2. Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchases.

Statutory Authority: §§ 9-170 and 18.2-308.2:2 of the Code of Virginia.

Effective Date: December 4, 1991.

Summary:

The regulations exist to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police to firearms dealers.

The regulations provide firearm dealers with clear guidelines regarding form handling and maintenance and the proper procedures for requesting criminal history record checks.

The amendments are needed to conform the regulations with changes made in 1991 to § 18.2-308.2:2 of the Code of Virginia. Those changes relate to the definition of the term "firearm" and the identification which must be presented when a firearm is purchased.

VR 240-02-2. Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchases.

PART I. GENERAL.

Pursuant to the provisions of § 18.2-308.2:2 of the Code of Virginia, criminal history record information checks are required prior to the sale, rental, trade or transfer of certain firearms. A criminal history record information check shall be requested by licensed dealers from the Department of State Police to determine the legal

eligibility of a prospective purchaser to possess or transport certain firearms under state or federal law. The Department of Criminal Justice Services hereby promulgates the following regulations governing these criminal history record information checks as required under § 18.2-308.2:2 H of the Code of Virginia. The purpose of these regulations is to ensure that criminal history record information checks are conducted in a manner which ensures the integrity of criminal history record information, guarantees individual rights to privacy, and supports the needs of law enforcement, while allowing nearly instantaneous sales of firearms to the law abiding public.

§ 1.1. Definitions.

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

"*Antique handgun or pistol firearm*" means any ~~handgun or pistol firearm~~, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898, and any replica of such a ~~handgun or pistol firearm~~, provided such replica: (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

"*Criminal history record information*" means records and data collected by criminal justice agencies on adult individuals, consisting of notations of arrests, detentions, indictments, informations, or other formal charges and any disposition arising therefrom.

"*Criminal history record information check*" (also "criminal record check" and "record check") means a review of a potential purchaser's criminal history record information, to be conducted by the Department of State Police at the initiation of a dealer in order to establish a prospective purchaser's eligibility to possess or transport a firearm, as defined herein, under state or federal law.

"*Dealer*" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"*Dealer identification number*" (DIN) means a unique identifying number assigned by the Department of State Police to each individual dealer as defined in § 18.2-308.2:2 G of the Code of Virginia, in order to identify such dealers when they request criminal history record

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information to determine the eligibility of a prospective purchaser to possess or transport a firearm.

"Department" means the Virginia Department of State Police.

"Firearm" means (i) any handgun or , shotgun, pistol having a barrel length of less than five inches which expels a projectile by action of an explosion; or (ii) any semi-automatic centerfire rifle or pistol which expels a projectile by action of an explosion and is provided by the manufacturer with a magazine which will hold more than 20 rounds of ammunition; or is designed by the manufacturer to accommodate a silencer or bayonet or is equipped with a bipod, flash suppressor or folding stock .

"Handgun" means any firearm including a pistol or revolver designed to be fired by the use of a single hand.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any member of the Regulatory Division of the Department of Alcoholic Beverage Control vested with police authority, any police agent appointed under § 56-353 of the Code of Virginia (provides railroad officials with the authority to appoint police agents), or any game warden who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Prospective purchaser" means an individual who intends to buy, rent, trade, or transfer a firearm or firearms as defined herein, and has notified a dealer of his intent.

"Resident of Virginia" means a person who resides and has a present intent to remain within the Commonwealth, as shown by an ongoing physical presence and a residential address within Virginia. If a person does not reside in Virginia, but is on active duty as a member of the U.S. Armed Forces and Virginia is the person's permanent duty station, the person shall, for the purpose of these regulations, be considered a resident of Virginia.

"Transfer" means to sell, rent, trade, or transfer a firearm as defined herein.

"Virginia Firearms Transaction Record Form" means the form issued by the Department of State Police provided to dealers and required for obtaining a criminal history record check, also known as "SP-65," the "VFTR form" or the "VFTR."

PART II.

REGULATIONS.

§ 2.1. Applicability of regulations concerning criminal history record checks for firearm purchase.

A. These regulations apply to:

1. All licensed dealers in firearms; and
2. The Department of State Police.

B. These regulations shall not apply to:

1. Transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq;
2. Purchases by or sale to any law-enforcement officer or agent of the United States, Commonwealth or any local government;
3. Antique handguns or pistols firearms ; or
4. Transactions in any county, city or town that has a local ordinance adopted prior to January 1, 1987, governing the purchase, possession, transfer, ownership, conveyance or transportation of firearms which is more stringent than § 18.2-308.2:2 of the Code of Virginia.

§ 2.2. Responsibilities of dealers.

It shall be the responsibility of dealers that transfer firearms in Virginia to comply with the following:

1. Register with the department and obtain from the department a dealer identification number (DIN) and the toll-free telephone number to participate in the criminal history record check program.
2. Prior to transferring any firearm, determine if the firearm is a "firearm" as defined in these regulations and § 18.2-308.2:2 of the Code of Virginia.
3. Complete the VFTR form.
4. Request a criminal history record information check prior to the transfer of any such firearm.
5. Maintain required forms and records according to the procedures outlined in these regulations.
6. Deny the transfer of a firearm if advised by the Department of State Police that the prospective purchaser is ineligible to possess such a firearm and the department disapproved the transfer of a firearm to the prospective purchaser.
7. Allow the Department of Criminal Justice Services access to all forms and records required by these regulations.

§ 2.3. Responsibilities of the Department of State Police.

A. The Department of State Police shall operate a telephone and mail response system to provide dealers in firearms (as defined herein) with information on the legal eligibility of prospective purchases to possess or transport firearms covered under these regulations. This information shall be released only to authorized dealers. Prior to the release of the information, the identity of the dealer and the prospective purchaser can be reasonably established.

B. In no case shall the department release to any dealer actual criminal history record information as defined herein. The dealer shall only receive from the department a statement of the department's approval or disapproval of the transfer, and an approval code number, if applicable, unique to the transaction. A statement of approval or disapproval shall be based on the department's review of the prospective purchaser's criminal history record information and restrictions on the transfer of firearms to felons enumerated in § 18.2-308.2 of the Code of Virginia or federal law. This statement shall take one of the following two statuses: (i) approval with an approval code number, or (ii) disapproval with no approval code number.

C. The department shall provide to dealers a supply of VFTR forms, a DIN, and a toll-free number to allow access to the telephone criminal history record check system available for approval of firearms purchases by Virginia residents.

D. The department shall supply all dealers in the Commonwealth with VFTR forms in a manner which allows the department to use the forms to identify dealers and monitor dealers' use of the system to avoid illegal access to criminal history records and other department information systems.

E. The department shall hire and train such personnel as are necessary to administer criminal history record information checks, ensure the security and privacy of criminal histories used in such record checks, and monitor the record check system.

F. Allow the Department of Criminal Justice Services access to all forms and record required by these regulations.

§ 2.4. Preparing for a criminal history record check.

A. General procedures.

1. If any firearm which a prospective purchaser intends to obtain in transfer is a firearm as defined herein, the dealer shall request that the Department of State Police conduct a criminal history record check on the purchaser. The dealer may obtain the required record check from the department for purchasers who are residents of Virginia by telephoning the department, using the provided toll-free number, and requesting the record check. For

purchasers who are out-of-state residents, the dealer may only request the record check from the department by mail or delivery. However, Virginia residents may, if they elect, request the dealer to obtain a record check by mail. The initial required steps of completion of the VFTR, obtaining consent of the purchaser, determining residency and verifying identity are common to both telephone and mail methods of obtaining the record check.

2. The dealer shall request a criminal history record check and obtain the prospective purchaser's signature on the consent portion of the form for each new transfer of a firearm or firearms to a given purchaser. One record check is sufficient for any number of firearms in a given transfer, but once a transaction has been completed, no transfer to the same purchaser shall proceed without a new record check.

3. A criminal history record check shall be conducted prior to the actual transfer of a firearm.

B. Completing section A of the Virginia firearms transaction record: Obtaining consent for a criminal history record information check for firearms purchase.

As a condition of any sale, the dealer shall advise the prospective purchaser to legibly complete and sign section A of a VFTR form.

1. The dealer shall require the prospective purchaser to complete section A of the VFTR form in the prospective purchaser's own handwriting, and without the dealer's assistance. The purchaser shall answer the questions listed and shall complete the items that establish residency and describe identity, including name, sex, height, weight, race, date of birth and place of birth.

2. If the prospective purchaser cannot read or write, section A of the VFTR form may be completed by any person other than the dealer or any employee of the dealer according to the procedures specified on the reverse side of the VFTR form.

3. The dealer shall also obtain the prospective purchaser's signature or, if he cannot read or write, his mark, following the consent paragraph at the bottom of section A, which shall certify that the information supplied by the purchaser in section A is true and correct.

C. Completing section B of the Virginia firearms transaction record: Establishing purchaser identity and residency and dealer identity.

Prior to making a request for a criminal history record information check, the dealer shall complete all of section B of the VFTR form for which the dealer is responsible. Information recorded on the VFTR form shall be sufficient

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to: (i) reasonably establish a prospective purchaser's identity and determine the residency of the prospective purchaser; and (ii) identify the dealer.

1. Identify prospective purchaser and determine residency.

a. The dealer shall determine residency and verify the prospective purchaser's identity as required in section B of the VFTR, by requiring at least two forms of identification. Only the forms of identification listed below shall be acceptable forms of identification. At least one of the following forms of identification shall include a recent photograph of the prospective purchaser. Accordingly, the dealer shall require the prospective purchaser to furnish one form of identification that contains a recent photograph of the prospective purchaser and at least one other form of identification included in the list below:

- (1) A valid and current Virginia driver's license or photo identification card provided by the Virginia Department of Motor Vehicles or another state's issuing authority;
- (2) A military identification card;
- (3) An immigration card;
- (4) An employment identification card, provided the card shows at least the prospective purchaser's name and place of employment;
- (5) A passport;
- (6) A voter registration card;
- (7) Evidence of paid personal property tax or real estate taxes;
- (8) A current automobile registration;
- (9) A hunting or fishing license;
- (10) A social security card; or
- (11) Other identification allowed as evidence of residency by Part 178.124 of Title 27, Code of Federal Regulations, and ATF Ruling 79-7.

b. However, one photo identification shall be sufficient identification of any prospective purchaser of a firearm. The one form of identification shall be issued by a governmental agency of the Commonwealth and shall contain the following information:

- (1) Name;
- (2) Birth date;

(3) Gender;

(4) Race; and

(5) Social security number or any other identification number.

b c . The dealer will ensure that the forms form(s) of identification support the listing of the identifying characteristics and the resident's address as supplied by the prospective purchaser in section A of the VFTR .

e d . If the dealer discovers any unexplained discrepancy between the two forms of identification (different birth dates, different names), the dealer shall not request a criminal history record check until the prospective purchaser can be adequately identified with two acceptable forms of identification as required.

¶ e . The dealer shall name and identify on the VFTR form the documents document(s) used to verify the prospective purchaser's identity and residence, and shall record all pertinent identifying numbers on the VFTR form.

e f . While the dealer is required to collect sufficient information to establish the prospective purchaser's identity and residency from the documents form(s) of identification listed above, in no case is the dealer authorized to collect more information on the prospective purchaser than is reasonably required to establish identity and state of residence.

2. Identify dealer. The dealer or his employee shall note on section B of the form:

- a. The dealer's or employee's signature;
- b. His position title (owner, employee);
- c. The trade or corporate name and business address; and
- d. The dealer's federal firearms license number.

§ 2.5. Procedures for requesting a criminal history record information check by telephone (Virginia residents only).

A. Once the prospective purchaser has completed section A of the VFTR form and the dealer has completed the necessary portions of the VFTR form and determined that the prospective purchaser is a resident of Virginia, the dealer shall call the Department of State Police and request a criminal history record information check by telephone for the firearm transfer. The dealer shall use the toll-free number provided by the Department of State Police. However, no provision of these regulations shall prohibit a Virginia resident from obtaining a written

record check through the dealer for any firearm transfer.

B. The dealer shall identify himself to the department by providing his DIN and the printed number on the upper right-hand corner of the VFTR form prepared by the prospective purchaser.

C. The dealer shall allow the department to verify this identifying information. The Department of State Police may disapprove a firearm purchase if the department determines that the identifying information supplied by the dealer is incomplete, incomprehensible or in error, raises a reasonable doubt as to the origin of the call, or is otherwise unusable.

D. The dealer shall then supply to the department over the telephone all identifying data on the prospective purchaser which is recorded on section A of the VFTR, in the order requested by the department. This information shall be transmitted to the department in a discreet and confidential manner, assuring to the extent possible that the identifying data is not overheard by other persons in the dealer's place of business. If the dealer cannot provide sufficient information to allow the department to conduct a criminal history record check, the department will not accept the request on the basis of insufficient information to conduct a check. The department may adopt procedures to appropriately address such occurrences.

E. The Department of State Police will respond to the dealer's request for a criminal history record check by consulting the criminal history record information indexes and files, during the dealer's call. In the event of electronic failure or other difficulties, the department shall immediately advise the dealer of the reason for such delay and provide to the dealer an estimate of the length of such delay.

F. If no evidence of a criminal record or other information is found that would preclude the purchaser from possessing or transporting a firearm under state or federal law, the department will immediately notify the dealer that the transfer may proceed, and will provide the dealer with a unique approval code number, which the dealer shall enter in a clear, visible, and convenient manner on the original of the VFTR form.

G. If the initial search discloses that the prospective purchaser may not be eligible to possess a firearm, the department will notify the dealer that a further check must be completed before the end of the dealer's next business day, to determine if the prospective purchaser has a criminal record that makes him ineligible to possess or transport a firearm under state or federal law. This statement of ineligibility shall then be communicated by the dealer to the prospective purchaser in a discrete and confidential manner, recognizing the individual's rights to the privacy of this information.

H. In any circumstance in which the department must turn the dealer's telephone call, whether due to

electronic or other failure or in order to allow a further search, the dealer shall await the department's call and make no transfer of a firearm to the individual whose record is being checked until:

1. The dealer receives notification of approval of the transfer by telephone from the department; or

2. The department fails to disapprove the transaction of the prospective purchaser before the end of the next business day.

3. Exception: If the department knows at the time of the dealer's telephone call that it will not be able to respond to the request by the end of the dealer's next business day, it will so notify the dealer. Upon receiving notification, the dealer shall note in a clear and visible manner on the VFTR that the department was unable to respond. The dealer may in such cases complete the transfer immediately after his telephone call.

I. In the event that the department is unable to immediately respond to the dealer's request for a criminal history record check and the prospective purchaser is also unable to await the department's response to the dealer's request and the department ultimately approves of the transfer, the dealer may transfer any firearm or firearms, as listed on the VFTR form that initiated the request for a record check, to the prospective purchaser, after the receipt of the approval of the transfer from the department. The actual transfer of the firearm shall be accomplished in a timely manner. A second record check shall not be required provided that the actual transfer of the firearm occurs within a time period specified by the department.

J. If the dealer is notified by the department that the prospective purchaser is not eligible to possess or transport a firearm or firearms under state or federal law, and the transfer is disapproved, and if he is so notified before the end of the next business day after his accepted telephone request, the dealer shall not complete the transfer.

K. Within 24 hours of any transfer of a firearm covered by these regulations to a resident of Virginia on the basis of a telephone inquiry, the dealer shall send by mail or shall deliver to the department the appropriate copies of the VFTR other than the original, with sections A and B properly completed. No information on the type, caliber, serial number, or characteristics of the firearms transferred shall be noted on the copies of the VFTR submitted to the department, but the forms shall otherwise be complete. The dealer shall note the date of mailing on the form, or shall have the form date stamped or receive a dated receipt if the dealer delivers the form.

L. After sale check.

1. Following the receipt of the required copies of a completed VFTR form recording a transfer to a

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Virginia resident, the department shall immediately initiate a search of all data bases in order to verify that the purchaser was eligible to possess or transport the firearm(s) under state or federal law.

2. If the search discloses that the purchaser is ineligible to possess or transport a firearm, the department shall inform the chief law-enforcement officer in the jurisdiction where the transfer occurred and the dealer of the purchaser's ineligibility without delay. The department shall mark "disapproved" on a copy of the VFTR submitted by the dealer after the transfer and return the form by mail to the dealer.

§ 2.6. Procedures for requesting a criminal history record check by mail (required for all non-Virginia residents).

A. All transfers of firearms to non-Virginia residents require a written request for a record check. For non-Virginia residents, a criminal history record check for firearm transfer cannot be conducted by telephone. However, at the request of a Virginia resident, a dealer may request a record check by mail for any firearm transfer. In either case, the dealer shall follow the procedures as set forth below.

B. If a prospective purchaser is not a resident of Virginia or cannot supply sufficient information to establish or verify residency, the dealer shall obtain a record check by mailing or delivering a completed VFTR form to the department.

C. The dealer shall mail or deliver to the department the appropriate copies of the completed VFTR form according to procedures established by the department (which shall not describe, list, or note the actual firearms to be transferred) within 24 hours of the prospective purchaser's signing and dating of the consent paragraph in section A of the VFTR form. This shall be evidenced by the dealer's notation of the mailing date on the VFTR, if mailed, or the date stamp of the department on the VFTR form or a receipt provided to the deliverer, if delivered. The original of the completed VFTR form shall be retained at the dealer's place of business.

D. The department will initiate a search only upon receipt of the appropriate copies of the VFTR form at department headquarters. The department may challenge and refuse to accept any VFTR form if there is an unreasonable, extended time period between the date of the mailing and the date of receipt of the copies of the form at the department.

E. Following its search of Virginia and national criminal history record indexes and files, the department will return to the dealer a copy of the VFTR form, marked "approved," or "not approved." When a dealer receives approval, he may transfer any firearm or firearms, as listed on the VFTR form that initiated the request for a record check, to the prospective purchaser, after his receipt of the approval. The actual transfer of the firearm

shall be accomplished in a timely manner. A second record check shall not be required provided that the actual transfer of the firearm occurs within a time period specified by the department. If the transfer is disapproved, he is not authorized to transfer any firearm to the prospective purchaser.

F. In the case of written requests for criminal history record check, initiated by the submission of VFTR forms, the dealer shall wait up to 10 days after the mailing date (noted on the form) or delivery date stamp (if not mailed) of the request for written approval from the department, prior to transferring a firearm as defined herein.

G. However, if 10 days elapse from the date the VFTR form was mailed (as noted on the VFTR form) or delivered to the Department of State Police (as indicated by the date stamped by the department), and the department has not responded to the request initiated by the form by approving or disapproving the transaction proposed, the dealer may complete the transfer to the prospective purchaser on his next business day, after the tenth day, or thereafter, and not be in violation of the law or these regulations. After completion of the transfer in this case, as in all cases, any new or further transfer of firearms not listed on the VFTR form that initiated the request for a record check to the same purchaser will require a new criminal history record check.

§ 2.7. Proper use of the components of the criminal history record check system: Forms, records, toll-free telephone number and DIN.

A. The VFTR forms will be provided to the dealer by the department. VFTR forms shall not be transferred from one dealer to another. All VFTR forms partially completed, torn, defaced or otherwise rendered unusable shall be marked "VOID" and disposed of in a manner which will not allow their reuse. All unused forms shall remain the property of the Department of State Police and shall be returned to the department in the event that a dealer ceases to engage in the transfer of firearms in a manner which is regulated by the Department of Criminal Justice Services.

B. The dealer will retain the original of the VFTR form for his own files.

C. The dealer shall keep all blank and completed VFTR originals, and all returned copies in a secure area, which will restrict access to the information contained on the VFTR forms to authorized employees only.

D. The department shall retain a copy of all VFTR forms received from dealers according to the procedures outlined below.

1. Approved transfers. Thirty days after the department has notified the dealer of an approved transfer, the department shall destroy the VFTR for

still in its possession and all identifiable information collected pertaining to a prospective purchaser.

2. Disapproved transfers. VFTR forms recording a transfer that was not approved shall be maintained by the department in a separate file, maintained by name of prospective purchaser.

a. The information contained in these forms shall be used by the department for legitimate law-enforcement purposes only, and shall be governed by existing regulations concerning the privacy and security of criminal history record information.

b. The department may maintain any other printouts or reports with these copies of the VFTR form, provided they are treated as criminal history record information.

E. The Department of State Police shall maintain a running log of all requests for criminal history record information checks for firearms transfer, which shall include the following:

1. DIN and name of requester;
2. Dealer's transaction number;
3. Approval code number, if sale is approved;
4. Date of telephone request or mailing or delivery date of mail request;
5. Notation of type of record request - either telephone or mail request;
6. Approved or not approved status; and
7. Date of clearance from department file through mailing of VFTR form to the dealer or other final action.

F. A log shall be retained at the department on each request which leads to approvals of firearm transfers for 12 months from the date of each request.

G. Requests which lead to disapprovals shall be maintained by the department on a log for a period of two years from the date the request was accepted by the department for processing.

H. The department shall monitor and distribute all VFTR forms in an appropriate manner to ensure their proper control and use. This includes designing, redesigning, numbering, distributing, tracking, and processing all VFTR forms.

I. No dealer shall provide his DIN or the toll-free number to another party for any reason.

J. The DIN's and the toll-free number may be changed periodically to ensure that these numbers are not improperly used by unauthorized dealers or unauthorized parties.

§ 2.8. Audits.

A. The Department of State Police shall continuously observe compliance with requirements regarding VFTR form completion, notification of the Department of State Police following firearm transfers, form management and storage, and confidentiality and proper use of the DIN and the toll-free telephone number for Virginia resident telephone record checks.

B. The Department of State Police shall notify the Department of Criminal Justice Services if a dealer has used or may have used the criminal history record information check system improperly in a manner that may jeopardize the confidentiality and security of criminal history record information systems.

C. Upon such notification, the Department of Criminal Justice Services shall audit the dealership in question and recommend corrective action without delay.

1. Pending the outcome of an audit, the department may invalidate a particular DIN to ensure the continuous integrity of the criminal history record information. Prior to such invalidation, the department shall notify the dealer orally, telephonically or in writing of the reasons for such invalidation and allow the dealer the opportunity to respond. The department shall also notify the Department of Criminal Justice Services when a DIN has been invalidated.

2. Should the results of an audit reveal that the provisions of these regulations have not been violated, the Department of Criminal Justice Services shall advise the department to immediately reinstate the invalidated DIN.

3. Should the results of an audit reveal minor violations of the provisions of these regulations, the Department of Criminal Justice Services may notify the department to monitor all future requests of the dealer for criminal history record checks for a period not to exceed 90 days. In the event that the DIN of the dealer has been invalidated, the Department of Criminal Justice Services shall also notify the department to reinstate the invalidated DIN. Any additional violations that may occur during this time period shall be reported to the Department of Criminal Justice Services. Occurrences of additional violations shall invoke the provisions of these regulations for the handling of major or repeated violations, as outlined below, and may result in a subsequent audit of the dealer.

4. Should the results of an audit reveal major or repeated violations of the provisions of these

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regulations, the Department of Criminal Justice Services shall advise the department to invalidate the DIN if not invalidated previously and that the invalidated DIN should not be reinstated until the dealer submits a written request to the Department of Criminal Justice Services for reinstatement of the DIN. The request shall demonstrate to the reasonable satisfaction of the Department of Criminal Justice Services that corrective action has been taken by the dealer to comply with the provisions of these regulations.

5. Should the results of an audit reveal that the privacy and security of criminal history record information have been compromised, the Department of Criminal Justice Services shall send written notification to the dealer, the office of the local commonwealth's attorney and the department.

D. The Department of Criminal Justice Services shall annually audit the Department of State Police to ensure the following:

1. That records, VFTR's and other materials, except for the maintenance of the log as outlined above, on purchasers found to be eligible to possess or transport firearms (approved) are being routinely destroyed 30 days from the notification, mailing or delivery date of the accepted request for a record check; and
2. That VFTR's and other materials gathered on persons found to be ineligible to purchase a firearm (disapproved) are governed by the regulations for criminal history record information; and
3. That logs recording the approvals and disapprovals of firearm transfers are being correctly maintained according to the provisions of these regulations.

* * * * *

Title of Regulation: VR 240-03-1. Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel.

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

Effective Date: January 1, 1992.

Summary:

The amended rules create an entry level training program for compliance agents. Additionally, the amended rules require all private security services personnel to attend an approved in-service training program by December 31 of every other calendar year following completion of entry level training.

Based on public comment, the effective date for in-service training was delayed until July 1, 1992, and the firearms qualification scoring method was changed

to reflect a more stringent qualification score.

VR 240-03-1. Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel.

PART I.
GENERAL.

Pursuant to the provisions of § 9-182 of the Code of Virginia, the Criminal Justice Services Board hereby promulgates the following rules for compulsory minimum training standards for private security services business personnel.

§ 1.1. Definitions.

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

"Approved training school" means a training school which provides instruction of at least the minimum training standards mandated and approved by the department for the specific purpose of training private security services business personnel.

"Board" means the Criminal Justice Services Board.

"Class" means a minimum of 50 minutes of instruction on a particular subject.

"Compliance agent" means a natural person who is an owner of or employed by a licensed private security services business. The compliance agent shall ensure the compliance of the private security services business with all applicable requirements [as provided in § 54.1-1902 of the Code of Virginia] .

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"Private security services business" means any person engaged in the business of providing, or who undertakes to provide, armored car personnel, guards, private detectives/private investigators, couriers or guard dog handlers, to another person under contract, expressed or implied.

"Private security services business personnel" means any employee of a private security services business who is employed as an unarmed or private detective/private investigator.

"School director" means the chief administrative officer of an approved training school.

"Session" means a group of classes comprising the tot

hours of mandated training in a category (unarmed guards, armed detectives/private investigators and compliance agents). Sessions are approved on the basis of schedules submitted by approved training schools in accordance with rules established herein.

PART II. COMPULSORY MINIMUM TRAINING STANDARDS FOR PRIVATE SECURITY SERVICES BUSINESS PERSONNEL.

§ 2.1. *Compulsory minimum training standards for private security services business personnel.*

A. [Armed] Guards /Couriers .

Core Subjects	Hours
1. Administration and security orientation	2
2. Legal authority	6
3. Emergency and defensive procedures	8
4. Written Examination (refer to § 4.1 K 5.1 L)	
Total Hours (excluding written examination)	16

~~§ 2.2.~~ B. Guard dog handlers.

Core Subjects	Hours
1. Guard training (See § 2.1 A)	16
2. Basic obedience retraining	6
3. Canine patrol techniques	6
4. Written examination (refer to § 4.1 K 5.1 L)	
Total Hours	28

~~§ 2.3.~~ C. Private detectives/private investigators.

1. Private detectives/private investigators orientation	8
2. General investigative techniques	20
3. Interviewing techniques	8
4. Criminal law and procedure and rules of evidence	8
5. Civil law and procedure and rules of evidence	10
6. [Repealed]	
7. 6. Collecting and reporting information	6
8. 7. Written comprehensive	

examination.	1
Total Hours	61

D. Compliance agent.

1. Review of Department of Commerce Rules	2
2. Review of Department of Criminal Justice Services Rules	2
3. Employment Law	1
4. Record Maintenance/Requirements	1
Total Hours	6

§ ~~2.4.~~ E. Firearms training (required for all [armored car personnel and other] armed private security services business personnel).

1. Classroom - 8 hours (refer to § ~~5.1 A~~ 6.1 B .)
2. Shotgun Classroom (if applicable) - 1 hour (refer to § ~~5.1 B~~ 6.1 C .)
3. Firearms Written Examination (refer to §§ ~~4.1 K~~ 5.1 L 1 c and 5.1 L 1 d)
4. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber or type and gauge of weapon that is immediately accessible or carried in the performance of duty. (Refer to §§ ~~5.1 A~~ and ~~5.1 B~~ 6.1 B and 6.1 C .)

Total Hours (excluding written examinations, shotgun classroom and all firearms range training). - 8

PART III. COMPULSORY IN-SERVICE TRAINING STANDARDS FOR PRIVATE SECURITY SERVICES BUSINESS PERSONNEL.

§ 3.1. *Compulsory in-service training standards for private security services business personnel.*

A. Guards/Couriers.	Hours
1. Legal Authority	2
2. Job Related Training	2
Total	4
B. Guard Dog Handlers.	
1. Legal Authority	2
2. Job Related Training	2
3. Basic Obedience Retraining	2
4. Canine Patrol Techniques	2
Total	8
C. Private Detective/ Private Investigators.	Hours

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1. Legal Authority/Issues (Civil & Criminal)	4
2. Job Related Training	4
Total	8
D. Compliance Agent.	
1. Review of Department of Commerce Rules	2
2. Review of Department of Criminal Justice Services Rules	2
Total	4

PART III IV . APPLICABILITY.

§ 3-1. 4.1. Applicability.

A. Every person employed by a private security services business or applying to the Department of Commerce for registration as a guard, courier, armored car personnel, guard dog handler, private detective/private investigator as defined by § 54.1-1900 of the Code of Virginia, or for approval as a compliance agent as required by § 54.1-1902 A of the Code of Virginia, who has not met the compulsory minimum training standards prior to the effective date of these regulations, must meet the compulsory minimum training standards herein established unless provided otherwise in accordance with § 3-1 B or § 3-1 C subsection B [and or] C of this section . [Persons who fail to renew or reinstate registration with the Department of Commerce within six months after the expiration date of such registration but applies for registration as a private security services business personnel before 12 months after expiration of such registration must attend in-service training. Persons who fail to apply for registration within 12 months after the expiration date of their former registration with the Department of Commerce must comply with compulsory minimum training standard for the category(s) in which they were previously registered. Any person who fails to renew registration with the Department of Commerce within 12 months must comply with compulsory minimum training standards for the category(s) in which registration expired.]

B. Persons who meet the statutory requirements as set forth in § 9-182 of the Code of Virginia, and who have completed a law-enforcement entry level training course, may apply for an exemption from the mandatory training. The director may issue such exemption or partial exemption on the basis of individual qualifications as supported by required documentation. The director shall not issue more than a partial exemption to those persons who have remained out of law-enforcement employment in excess of 24 months. Those applying for and receiving exemptions must also comply with all firearms requirements, where applicable, and all regulations promulgated by the Department of Commerce. [

Exemptions issued must be presented to the Department of Commerce for action within 12 months from date of issuance . The department may establish a fee for receiving and processing requests for exemptions. Any person receiving an exemption or partial exemption must apply to the Department of Commerce for registration within 12 months of the date of issuance or the exemption or partial exemption shall become null and void.]

1. Persons receiving exemptions for the categories of armed guard and guard dog handler must attend the six-hour class entitled legal authority and the two-hour class entitled administration and security orientation .

2. Persons receiving exemption for the category of private detective/private investigator must attend the 10-hour class entitled civil law and procedures and rules of evidence and the eight-hour class entitled private detective/private investigator orientation .

C. The director may authorize credit for firearms training received at a department approved school which meets or exceeds the compulsory minimum training standards required for private security services business personnel provided that such training has been successfully completed within 12 months of the date of application.

D. Every person registered with the Department of Commerce as a guard/courier, armored car personnel/ guard dog handler, private detective/private investigator, or approved by the Department of Commerce to act as a compliance agent shall complete the compulsory in-service training standard once during each 24-month period of registration or approval as determined by the Department of Commerce. [Such provision shall become effective July 1, 1992.]

PART IV V . APPROVED TRAINING SCHOOLS OPERATIONS.

§ 4-1. 5.1. Approved training schools operations.

A. Private security services business personnel training schools must be approved annually by the department prior to the first scheduled session . Approval is requested by making submitting a renewal application to the director on forms provided by the department. Renewal applications must be postmarked no later than January of each calendar year. The director, in accordance with § 9-6.14:11 of the Administrative Process Act, may approve those schools which on the basis of curricula, instructors and facilities provide training that meets the compulsory minimum training standards. Renewal applications shall be submitted by no later than February 1st of each calendar year. A disapproval may be appealed to the board in accordance with § 9-6.14:11 of the Administrative Process Act. [The department may establish fees for the submission of initial applications, renewal applications and requests for training session approval.]

1. [*A school director must have successfully completed those segments of the mandated training they will seek approval to conduct before a new school application will be approved. A school director must have successfully completed those sessions of the mandated training for which they will seek approval prior to submission of an initial school application.*] School directors must be approved as private security instructors.

2. Instructors may not certify themselves as having met the mandated training standards for classes in which they provide instruction.

B. Approved training schools desiring to conduct firearms training classes only must request approval in accordance with § 4-1 5.1 C.

C. Approved training schools must submit a proposed training schedule on a form provided by or approved by the department postmarked no less than 10 days prior to the beginning of each session. The training schedule must include the date, time, subject, location and the name of the instructor for each class to be conducted during the training session. Any changes in an approved session shall be reported to the department immediately, followed by written notification postmarked the next working day. Approved training sessions will be conducted as scheduled.

D. Instruction shall be provided in no less than 50-minute classes.

E. Approved training may not exceed eight hours per day (excluding testing) .

F. *In-service training schools shall be conducted in no less than four hour sessions.*

F. G. Instructor qualifications.

1. Instructors teaching in an approved training school must be approved by the department. Instructor qualifications shall be based upon previous work experience, instructional experience, training, and education. As a minimum, instructors [~~should~~ shall] meet the following requirements:

a. Have a minimum of three years supervisory experience with a private security services business or with any federal, U.S. military police, state, county or municipal law-enforcement agency, or

b. Have a minimum of one year experience as an instructor or teacher at an accredited educational institution or agency in the subject matter for which approval is requested or in a related field.

c. Must have completed an instructor development program ~~which~~ *within the three years immediately preceding the date of the application that meets or exceeds standards established by the department.*

d. Firearms instructors must have completed a firearms instructors school, specifically designed for law-enforcement or private security personnel. *The school must have been completed within the three years immediately preceding the date of the instructor application.*

[*e. Persons who completed an instructor development program or a firearms instructor school and have consistently provided instruction within the preceding three years may be eligible for approval.*]

G. H. Approved training schools will be subject to inspection and review by the director or his staff. Out-of-state approved training schools which require inspection may be required to pay for actual expenses of inspection.

H. I. Compliance agents are responsible for ensuring that unarmed guards comply with compulsory minimum training standards herein established for unarmed guards and training records of such personnel may be subject to inspection and review by the director or his staff.

I. J. Mandated training conducted without prior approval from the department is null and void.

J. K. The department may suspend or revoke the approval status of an approved training school upon written notification to the school's director. Such notification shall contain the reasons for revocation or suspension. The school's director may appeal the revocation or suspension by requesting a hearing before the board or its designee. The request shall be in writing and must be received at the department within 15 days of the date of the revocation or suspension notification.

K. L. Written examinations.

A written comprehensive examination is required at the conclusion of training of the core subjects. When additional training in excess of the core subjects is necessary to meet the requirements set forth for armed guards/couriers, armored car personnel, or guard dog handlers, an additional examination will be administered specifically for that portion of training. Schools conducting training for private detectives/private investigators are required to administer a comprehensive examination at the conclusion of training.

1. All written examinations shall include at least three questions for each class of instruction in a particular area of mandatory training.

a. Each core subject shall be separately tested and graded. Individuals must attain a minimum score of 70% in each core subject. Any individual who fails to attain a minimum score of 70% in each core subject will be required to repeat the training in the core subject(s) in which the individual is deficient

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and attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

b. Mandated training in excess of the core subjects shall be tested and graded. A minimum score of 70% must be attained on the examination(s) covering those mandated subjects in excess of the core subjects. If an individual does not achieve a minimum score of 70% on the examination, the individual will be required to retake such training *during an approved training session* and must attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

c. Firearms classroom training shall be separately tested and graded. Individuals must achieve a minimum score of 70% on the firearms classroom training examination. Any individual who fails to achieve a minimum score of 70% will be required to retake such training and must attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

d. Failure to achieve a minimum score of 70% on the firearms classroom written examination will exclude the individual from the firearms range training.

e. Firearms range training will be graded on a satisfactory/unsatisfactory basis. All armed private security services business personnel must achieve a score of at least 70%.

PART V VI . FIREARMS TRAINING.

§ 5-1. 6.1. Firearms course requirements.

A. [Private security services business personnel who desire to have their registration certified to authorize them to carry or have a firearm available for immediate use in the performance of duty will shall be required to meet the provisions of § 5-1 A or § 5-1 B, or both 6-1 B and, if applicable, § 6-1 C no earlier than 60 days before applying to the Department of Commerce for certification and once during each 12-month period of certification as determined by the Department of Commerce : Private security services business personnel who apply for armed registration shall be required to meet the provisions of § 6.1 B and, if applicable, § 6.1 C no later than 60 days before applying to the Department of Commerce for certification and once during each 12-month period of certification as determined by the Department of Commerce.]

A. B. Handgun.

1. Classroom training - The eight hours of classroom training will emphasize but not be limited to:

- a. The proper care of the weapon,
- b. Civil liability of use of firearms,
- c. Criminal liability of use of firearms,
- d. Deadly force,
- e. Justifiable deadly force,
- f. Range safety.

2. Range firing - (no minimum hours required) - The purpose of this course is to provide practical firearms training to individuals desiring to become armed private security services business personnel.

a. Prior to the date of range training it will be the responsibility of the school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training.

b. Course - Virginia Modified Double Action Course

e. b. Ammunition - 60 rounds - factory loaded Wadcutter or duty ammunition may be used for practice or range qualifications, or both qualification. The caliber of the ammunition used shall be of the same caliber the student will carry on duty .

d. c. Target - Silhouette (full-size B21-B21x or , B-27 or Q) - Alternate targets may be utilized with prior approval by the director.

e. d. With prior approval of the director, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.

e. An approved firearms instructor must be on the range during all phases of firearms training. There shall be one firearms instructor or assistant per four shooters on the line.

[f. Scoring.

(1) B21, B21x targets - use indicated K value with a minimum of 250 points: multiply by .4 to obtain percentage.

(2) B27 target - 8, 9, 10 x rings - value 5 points, 7 ring value 4 points, other hits on silhouette - value 3 points: multiply by .4 to obtain percentage.

(3) Q targets - any fired round striking the bottle area to its marked border - value 5 points - any fired round striking outside the bottle area - value 3 points.]

[*f. g.*] *Course. Virginia Modified Double Action course or the Virginia Modified Double Action course for Semi-Automatic Pistols.*

3. (1) Virginia Modified Double Action Course

Handgun

Virginia Modified Double Action Course for all handguns carried in the performance of duty.

Target - Silhouette (B21, B21x, B27 or Q)

60 rounds

Double action only

Minimum qualifying score - 70% of [*which is 42 rounds within silhouette*]

- Phase 1 - 7 yards, point shoulder position, 24 rounds
 Load 6 rounds, fire 1 round on whistle (2 seconds), repeat
 Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat
 Load 6 rounds, fire 12 rounds on whistle (30 seconds), repeat

- Phase 2 - 15 yards, point shoulder position, 18 rounds
 Load 6 rounds, fire 1 round on whistle (2 seconds), repeat
 Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat
 Load 6 rounds, fire 6 rounds on whistle (12 seconds)

- Phase 3 - 25 yards, 90 seconds, 18 rounds
 Load 6 rounds, on whistle:
 fire 6 rounds, kneeling, strong hand; reload
 fire 6 rounds, standing behind barricade, weak hand; reload, fire 6 rounds, standing behind barricade, strong hand (kneeling position may be fired using barricade)

[4.] An approved firearms instructor must be on the range during all phases of firearms range training. There shall be one firearms instructor or assistant per four shooters on the line.

(2) Virginia Modified Double Action Course for Semi-Automatic Pistols

Target - Silhouette (B-21, B-21X, B-27 or Q)

Minimum Qualifying Score - 70%

(a) Each officer is restricted to the number of magazines carried on duty. Magazines shall be loaded to their full capacity. The range instructor shall determine when magazines will be changed.

(b) Phase 1 - 7 yards, hip shooting, crouch position, load magazine, fire 1 round double action on command (2 seconds); or fire 2 rounds (3 seconds), make weapon safe, holster, repeat until 6 rounds have been fired.

On command, draw and fire 2 rounds (3 seconds), make weapon safe, holster, repeat until 6 rounds have been fired.

On command, draw and fire 12 rounds in 20 seconds, make weapon safe, and holster.

(c) Phase 2 - 15 yards point shoulder position. On command, draw and fire 1 round (2 seconds); or draw and fire 2 rounds (3 seconds), make weapon safe, holster, repeat until 6 rounds have been fired.

On command, draw and fire 1 round (2 seconds) or 2 rounds (3 seconds), make weapon safe, holster, repeat until 6 rounds have been fired.

On command, draw and fire 6 rounds (12 seconds), make weapon safe, holster.

(d) Phase 3 - 25 yards, kneeling and standing position. On command, assume kneeling position, draw weapon and fire 6 rounds, then fire 6 rounds weak hand, standing, barricade position, then fire 6 rounds strong hand, standing, barricade position, until a total of 18 rounds have been fired (70 seconds).

B. C. Shotgun training.

1. Classroom training - classroom instruction will be emphasized but not be limited to:

- a. Safe and proper use and handling of shotgun,
- b. Nomenclature,

2. Range firing (no minimum hours required) - The purpose of this course is to provide practical shotgun training to those individuals who carry or have immediate access to a shotgun in the performance of their duty.

3. Ammunition - 5 rounds - Ammunition must be of same type as carried in the performance of duty.

4. Course: Modified shotgun range

Distance	Position	No. Rounds	Target
25 Yds.	Standing/ Shoulder	5	Silhouette

5. An approved firearms instructor must be on the range during all phases of firearms range training. There shall be one firearms instructor or assistant per four shooters on the line.

C. D. Firearms retraining.

1. All armed private security services business personnel must satisfactorily complete *two hours* of

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firearms classroom *training* and *the* range training as prescribed in subsections A and B of § 5.1 §§ 6.1 B and 6.1 C , if applicable, within every other each calendar year as set forth below . Approved schools providing firearms retraining must meet the requirements of § 4.1 5.1 A, B, C and D of these rules .

2. All persons who are registered as armed private security services business personnel and who have complied with the basic firearms training requirement shall comply with this provision by December 31 of each calendar year after receipt completion of armed registration guard training and thereafter by December 31 of every other each calendar year.

3. Satisfactory completion of firearms retraining classes approved and monitored by the [United States] General Services Administration (GSA) will meet the requirements of this section.

PART VI VII . ATTENDANCE AND ADMINISTRATIVE REQUIREMENTS.

§ 6.1 7.1. Attendance and administrative requirements.

A. The compulsory minimum training standards [*for entry level and in-service*] shall be attained by attending and satisfactorily completing an approved training school.

B. Private security services business personnel enrolled in an approved training school are required to attend all prescribed mandatory training classes.

C. Tardiness and absenteeism will not be permitted. Individuals violating these provisions will be required to make up any training missed.

D. Each training school director will be required to maintain a current file of attendance records, examination scores, and firearms familiarization scores, on each individual for three years from the date of the training session in which the individual attendee was enrolled. *Additionally, each training director shall award [a certificate written certification] of completion to each student who satisfactorily completes a training session. The [certificate certification] shall contain, as a minimum, the following:*

*The name of the approved school
Type of training session
Name of student
Date of completion of training session
Signature of training director*

E. Any changes in an approved school schedule, instructors, dates, times and location shall be reported to the department immediately.

F. The school director of each approved training school

shall ~~submit~~ *prepare* a certification of completion of training ~~form on forms provided by the Department of Commerce~~ which must be ~~postmarked~~ *transmitted* within seven days of the conclusion date of an approved training session *in compliance with the directions on the forms* , for each student who has satisfactorily completed all classes comprising an approved training session with the exception of unarmed guards training sessions. The certification form will be prepared in triplicate; the original is to be submitted to the Department of Commerce, one copy provided to the student and one . *One copy to shall* be retained on file with the approved training school for [*a minimum of*] three years. The training certification forms will be provided by the Department of Commerce. Certification of satisfactory completion of unarmed guard training sessions shall be reported to the department on forms provided by or approved by the department. Such certification of satisfactory completion of unarmed guard training shall be submitted to the department within seven days of the ending date of each approved training session. A copy of the training certification shall be maintained by the approved training school for a minimum of three years.

G. The resumes and objectives as approved by the department shall be adhered to and all subject matter shall be presented in its entirety.

H. Failure to comply with rules and regulations.

All individuals attending an approved training school shall comply with the rules promulgated by the board and any other rules within the authority of the school director. The school director shall be responsible for enforcement of all rules established to govern the conduct of attendees. If the school director considers the violation of the rules detrimental to the welfare of the school, the school director may expel the individual from the school. Notification of such action shall immediately be reported to the employing agency and the director.

PART VII VIII . EFFECTIVE DATE AUTHENTICATION .

§ 7.1. Effective date.

These rules shall be effective January 1, 1990 1992 , and until amended or rescinded.

A. *Adopted.*

March 17, 1977.

B. *Amended.*

October [4 2], 1989, and January 1, 1992.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
(BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of 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: State Plan for Medical Assistance Relating to Nursing Facility Resident Review Requirements.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality Care.

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

Effective Date: December 4, 1991.

Summary:

This action amends the Plan for Medical Assistance with a technical change to conform the section for review of nursing facility residents with the sections on patient criteria and nursing facility reimbursement.

The section of the Plan affected by this action is "Standards Established and Methods Used to Assure High Quality Care" (Attachment 3.1-C). OBRA '87 mandated significant changes involving nursing facilities, including the elimination of the inspection of care requirement and of periodic physician recertification for continued stay. These requirements were implemented by DMAS in conformance to OBRA '87.

As required by OBRA '87, nursing facilities (NFs) conduct, upon admission and periodically thereafter, a comprehensive assessment of each resident's functional capacity. At the time of publication of OBRA '87, there was no assessment instrument available from the Health Care Financing Administration (HCFA). In late 1990, HCFA published its recommended assessment instrument which was later adopted by the Commonwealth. This Resident Assessment Instrument (RAI) is maintained in residents' medical records.

This federally mandated resident assessment must be conducted by nursing facility staff no later than 14 days after the date of admission and promptly after a significant, permanent change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly and a complete assessment must be conducted at least annually. In addition, NFs must submit to DMAS information (as contained in the RAI) at least every six months for utilization review purposes. If a resident assessment does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then

reimbursement to nursing facilities may be adjusted during the next semi-annual reimbursement review.

In order for reimbursement to be made to a nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in Supplement 1 to Attachment 3.1-C, Part 1. Recipient requirements for specialized care have been described in Supplement 1 to Attachment 3.1-C, Part 2. Nursing facility reimbursement methodology is described in the Nursing Home Payment System Supplement to Attachment 4.19-D. This action brings the language of Attachment 3.1-C, providing for these resident assessments, into conformance with Supplement 1 to Attachment 3.1-C (facility and resident criteria) and the nursing facility reimbursement methodology (Attachment 4.19-D).

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. General acute care hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care.

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b. The physician, or physician assistant under the supervision of a physician, must recertify, at least every 60 days, that patients continue to require inpatient hospital or mental hospital care.

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Long-stay acute care hospitals (nonmental hospitals).

1. Services for adults in long-stay acute care hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services and individuals with communicable diseases requiring universal or respiratory precautions.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. Physician certification must accompany the request. Periods of care not authorized by DMAS shall not be approved for payment.

b. These individuals must have long-term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, and the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet needs that must include daily therapeutic leisure activities.

d. In addition, the individual must meet at least one of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long-stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to pediatric/adolescent patients in long-stay acute care hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician

certification of the need for long-stay acute care, and any additional information that justifies the need for intensive services. Periods of care not authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, and the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that

cannot be closed; second- or third-degree burns covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

C. Nursing facilities.

1. As required by federal law, the Department of Medical Assistance Services visits every Medicaid patient that is residing in a nursing home in Virginia. The purpose of the visit is to conduct a complete medical and social evaluation of the patient. The visit also includes patient interviews and discussions with the professional staff and the attending physician. Thus, it is assured that quality care is rendered to these recipients and that the patient is receiving the proper level of care.

2. Long term care of patients in medical institutions will be provided in accordance with procedures and practices that are based on the patient's medical and social needs and requirements.

3. In each case for which payment for nursing facility services is made under the State Plan:

a. A physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician, must certify at the time of admission, or if later, the time the individual applies for medical

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assistance under the State Plan that the individual requires the nursing facility level of care. The Nursing Home Preadmission Screening shall serve as the admission or initial certification for nursing home care if the date of the screening occurred within 30 days prior to the admission;

b. The physician, or nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician, must recertify the need for skilled or intermediate level of care. Recertifications must be written according to the following schedule:

(1) Skilled Nursing Facility Services - at least:

30 days after the date of the initial certification;

60 days after the date of the initial certification;

90 days after the date of the initial certification;
and

every 60 days thereafter;

(2) Intermediate Nursing Home Care - at least:

60 days after the date of the initial certification;

180 days after the date of the initial certification;

12 months after the date of the initial certification;

18 months after the date of the initial certification;

24 months after the date of the initial certification;
and

every 12 months thereafter;

(3) Intermediate Care Facilities for the Mentally Retarded - at least every 365 days;

e. For the purpose of determining compliance with the schedule established by paragraph b, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required, if the physician, or other person making such recertification, provides a written statement showing good cause why such recertification did not meet such schedule;

d. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but who is working in collaboration with a physician for skilled or intermediate care services ;

e. The schedule of recertifications set forth in

paragraph b shall become effective for all admissions and recertifications due on or after October 1, 1984, except that this amendment made by this section shall not require recertifications sooner or more frequently than every 60 days for skilled care patients admitted before October 1, 1984;

f. The addition of the nurse practitioner or clinical nurse specialist, as qualified in paragraphs a, b, and d, shall apply to certifications, recertifications, and plans of care for skilled or intermediate care written on or after July 1, 1988, and before October 1, 1990;

g. The Department of Medical Assistance Services will recover payments made for periods of care in which the certifications, recertifications, and plans of care documentation does not meet the time schedule of this section to the extent required by federal law.

h. In addition, a fiscal penalty of 1-1/2% per month of the disallowed payment will be assessed against the nursing home from the time the noncertified service was rendered until payment is received by the Virginia Medical Assistance Program (§ 32.1-313 of the Code of Virginia). No efforts by the nursing home shall be exerted to recoup this penalty from the patient or responsible party.

1. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements.

2. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

3. The Department of Medical Assistance Services shall conduct at least annually a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records.

4. Nursing facilities must submit to the Department of Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and

significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

5. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in Supplement 1 to Attachment 3.1-C, Part 1 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in Supplement 1 to Attachment 3.1-C, Part 2 (Adult Specialized Care Criteria) or Part 3 (Pediatric/Adolescent Specialized Care Criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis.

In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan that the individual requires nursing facility care.

6. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 90 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

7. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged.

D. Facilities for the Mentally Retarded (FMR) and Institutions for Mental Disease (IMD).

1. With respect to each Medicaid-eligible resident in an FMR or IMD in Virginia, a written plan of care must be developed prior to admission to or authorization of benefits in such facility, and a regular program of independent professional review (including a medical evaluation) shall be completed periodically for such services. The purpose of the review is to determine: the adequacy of the services available to meet his current health needs and promote his maximum physical well being; the

necessity and desirability of his continued placement in the facility; and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Long-term care of residents in such facilities will be provided in accordance with federal law that is based on the resident's medical and social needs and requirements.

2. With respect to each intermediate care FMR or IMD, periodic on-site inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), shall be conducted. The review shall include, with respect to each recipient, a determination of the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, the necessity and desirability of continued placement in the facility, and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Full reports shall be made to the state agency by the review team of the findings of each inspection, together with any recommendations.

3. In order for reimbursement to be made to a facility for the mentally retarded, the resident must meet criteria for placement in such facility as described in Supplement 1, Part 4, to Attachment 3.1-C and the facility must provide active treatment for mental retardation.

4. In each case for which payment for nursing facility services for the mentally retarded or institution for mental disease services is made under the State Plan:

a. A physician must certify for each applicant or recipient that inpatient care is needed in a facility for the mentally retarded or an institution for mental disease. The certification must be made at the time of admission or, if an individual applies for assistance while in the facility, before the Medicaid agency authorizes payment; and

b. A physician, or physician assistant or nurse practitioner acting within the scope of the practice as defined by state law and under the supervision of a physician, must recertify for each applicant at least every 365 days that services are needed in a facility for the mentally retarded or institution for mental disease.

5. When a resident no longer meets criteria for facilities for the mentally retarded or an institution for mental disease or no longer requires active treatment in a facility for the mentally retarded, then the resident must be discharged.

⊘ E. Home health services.

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Home health services which meet the standards prescribed for participation under Title XVIII will be supplied.

E. F. Optometrists' services are limited to examinations (refractions) after preauthorization by the state agency except for eyeglasses as a result of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

* * *

PART I. ADMISSION CRITERIA FOR REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a multi-disciplinary coordinated team approach to upgrade his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement, participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

1. Occupational Therapy
2. Physical Therapy
3. Cognitive Rehabilitation
4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II. INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an inpatient rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of

stay shall be requested in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III. DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment; and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

PART IV. INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for rehabilitation for which an outpatient assessment cannot be adequately performed, an inpatient evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated

goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

PART V. CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

PART VI. THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

PART VII. DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

PART VIII. REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have

been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability.

Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

1. Physical therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be

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performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

C. Occupational therapy.

1. Occupational therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the

amount, frequency and duration of the services shall be reasonable.

D. Speech-Language therapy.

1. Speech-Language therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

E. Cognitive rehabilitation.

1. Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

c. Cognitive rehabilitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

d. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

e. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

f. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

F. Psychology.

1. Psychology services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified psychologist as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

G. Social work.

1. Social work services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

H. Recreational therapy.

1. Recreational therapy are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this

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includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;

2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. All durable medical equipment over \$1,000 shall be preauthorized by the department; however, all durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

PART IX. HOSPICE SERVICES.

§ 9.0. Hospice services.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or Medicaid, the recipient must be "terminally ill," defined as having a life expectancy of six months or less, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician (if the individual has an attending physician) and the hospice medical director must certify the life expectancy.

§ 9.2. Utilization review.

Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 9.3. Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:

1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. Medical social services. Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

3. Physician services. Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

4. Counseling services. Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose c

training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

5. Short-term inpatient care. Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. Durable medical equipment and supplies. Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

7. Drugs and biologicals. Only drugs which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

8. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

9. Rehabilitation services. Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

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PATIENT INTENSITY RATING-SYSTEM REVIEW (PIRS)

Date Review Completed: mm/da/yr Reason for Submission: Admission 30 day hospital return UR/PIRS 30 day Medicaid Inelig. Change to/from Specialized Care

I. IDENTIFICATION INFORMATION
 1. Resident Name: Birthdate: mm/da/yr 3. Sex: Male Female
 4. Medicaid No.: Date of Eligibility: 5. Social Security No.

II. SUMMARY OF PROVIDERS
 6. Prior Location/Chain Provider # Admission/Discharge
 7. Current Location/Chain Provider # Admission/Discharge
 8. Current Level of Care: Nursing Facility Medicare/Medicaid Specialized Care

III. MEDICAL STATUS

9. PARALYSIS/PARESIS NONE ONSET

LOCATION	PREVIOUS REHAB PROG MORE THAN 1 YR OR YES (NO/NOT THAN 1 YR)	ONSET
Monoplegia/Paresis 1		
Hemiplegia/Paresis 2		
Paraplegia/Paresis 3		
Triplicia/Paresis 4		
Bilateral Hemiplegia/Paresis 5		
Quadriplegia/Paresis 6		

10. DIAGNOSES: Check only the 3 primary active diagnoses. If none apply, check box S.

A. HEART/CIRCULATION, GENL 41000
 B. ENDOCRINE, GENL 51900
 C. DIGESTIVE/LIVER/GALL BLADDER, GENL 53700
 D. RENAL/PALRE (end stage) 56500
 E. MUSCULOSKELETAL, GENL 71500
 F. BRAIN/SPINAL CORD/NERVES, GENL 78100
 G. SPINAL CORD INJURIES 95300
 H. SEIZURE DISORDERS 34500
 I. TRAUMA TO THE BRAIN 85000
 J. PSYCHIATRIC, GENL (NON-PASARR) 30000
 K. MENTAL RETARDATION 31900
 L. MENTAL ILLNESS (PASARR) 29600
 M. ALCOHOLISM 33300
 N. RESPIRATORY, GENL 49200
 O. AIDS 04200
 R. AIDS 04200
 S. NONE OF THE ABOVE 00000

IV. FUNCTIONING STATUS (Check one box for each item)

11. Bathing: Bathes independently or mechanical assistance only 1
 Bathes with some human assistance 3
 Is bathed by staff or does not bathe 5

12. Dressing: Dresses independently or with mechanical assistance only 1
 Dresses with some human assistance 3
 Is dressed by staff or does not dress 5

13. Toileting: Toilets independently or with mechanical assistance only 1
 Toilets with some human assistance 3
 Does not use toilet room 4

14. Transferring: Transfers independently or mechanical assistance only 1
 Transfers with some human assistance 3
 Is transferred 4
 Is not transferred 5

15. Bowel Function: Continent, incontinent less than weekly, ostomy - self-care 2
 Incontinent weekly or more, other problems 3
 Ostomy - not self-care 4

16. Bladder Function: Continent, incontinent less than weekly, devices w/self care 4
 Incontinent weekly or more 5
 Devices, not self care 8

17. Eating/Feeding: Eats independently or mechanical assistance only 1
 Eats with some human assistance 3
 Spoon fed 4
 Syringe or tube fed, fed by TV or clysis 6

18. Behavior Pattern: Appropriate 0
 Wandering/Passive less than weekly 1
 Wandering/Passive weekly or more 2
 Abusive/Aggressive/Disruptive - less than weekly 3
 Abusive/Aggressive/Disruptive - weekly or more 4
 Comatose 5

19. Orientation: Oriented 0
 Disoriented - some spheres some time 1
 Disoriented - some spheres all time 2
 Disoriented - all spheres some time 3
 Disoriented - all spheres all time 4
 Comatose 5

20. Mobility: Goes outside independently or with mechanical assistance only 1
 Goes outside with some human assistance or confined and moves about 4
 Confined - does not move about 5

21. Walking: Walks independently 0
 Walks with mechanical assistance only 1
 Walks with some human assistance 3
 Does not walk 4

22. Wheeling: Does not wheel, moves about 0
 Wheels independently or with mechanical assistance only 2
 Wheels with some human assistance 4
 Is wheeled or is not wheeled 6

23. Communication: Verbally or nonverbally 2
 Does not communicate 3

V. REHABILITATION SERVICES CURRENTLY RECEIVED

THERAPIES: NO YES 1
 24. Occupational
 25. Physical
 26. Speech

SPECIAL NURSING PROCEDURES:
 27. Daily Dressing/ Wound Care: NO YES 11 specify sites, size, stage:
 28. Other Special Nursing Procedures: Does not receive 0
 Receives 1 (Describe: _____)

I certify that the information contained herein is a true abstract of the resident's condition as documented in the resident's medical record.

Administrator's Signature _____ Date _____
 RR completing form _____ Date _____
 DNAS-80

3. STABILITY OF CONDITIONS a. Consciousness stable presents opposite ADL, orientation, or behavior status instabilities, precarious, or deteriorating b. Presenting an acute episode or a flare-up of a recurrent/chronic problem. c. NONE OF THE ABOVE		4. SKIN PROBLEMS (e.g., cuts) a. Open lesions other than lacerations or pressure ulcers b. Skin desquamated to burn/pressure/abrasion c. Protective/preventive skin care d. Turning/repositioning program e. Pressure-relieving mats, bed/chair pads (e.g., egg chair pads) f. Wound care/treatment (e.g., pressure ulcer care, surgical wound) g. Other skin care/treatment h. NONE OF ABOVE	
SECTION L - CHAIR/NUTRITIONAL STATUS 1. PROBLEMS a. Chewing problem b. Swallowing problem c. Mouth pain d. NONE OF ABOVE		SECTION O - MEDICATIONS 1. NUMBER OF MEDICATIONS a. Record the number of different medications used in the last 7 days; enter "0" if none used. b. YES c. NO	
2. WEIGHT AND WEIGHT CHANGE a. Weight stable or not record status on last 30 days; measure before meal, with breakfast, and in nightgowns. b. Weight loss (i.e., 5% or more in last 30 days or 10% in last 180 days) c. NONE OF ABOVE		2. NEW MEDICATIONS a. Record the number of new medications during the last 90 days b. YES c. NO	
3. NUTRITIONAL PROBLEMS a. Consistent complaint of hunger b. Regular complaint of fullness c. Inconsistent complaint of hunger d. Inconsistent complaint of fullness e. Inconsistent complaint of both hunger and fullness f. NONE OF ABOVE		3. INJECTIONS a. Record the number of drug injections of any type received during the last 7 days b. YES c. NO	
4. NUTRITIONAL APPROACHES a. Parenteral/NV b. Therapeutic diet c. Feeding tube d. Mechanical altered diet e. Syringe feed f. NONE OF ABOVE		4. DAYS RECEIVED FOLLOWING MEDICATION a. Record the number of days during last 7 days used last meal weekly b. YES c. NO	
SECTION M - ORAL/ENTRALS STATUS 1. ORAL DISEASE PREVENTION a. Does (last, easily removable substance) present in mouth prior to going to bed at night b. Has dentures and/or removable bridge c. Some/all natural teeth lost-does not have or does not use dentures for partial/dental d. Bleeds, loose, or carious teeth e. Inflamed gums (gingivitis), oral abrasions, swollen or bleeding gums, ulcers, or sores f. Daily use of mouth dentures if not checked g. NONE OF ABOVE		5. PREVIOUS RESULTS a. (SKIP this question if resident currently receiving enteral/parenteral nutrition) b. Resident has previously received 25% or more of total calories from enteral/parenteral nutrition (these medications were effective without usual side effects/consequences) c. No, drugs not used d. Drugs were not effective e. Drug effectiveness unknown	
2. PRESSURE ULCERS a. Has been treated by other various clinicians b. YES c. NO		6. SPECIAL CARE a. Record the number of special treatments received during the last 14 days b. YES c. NO	
3. HISTORY OF PRESSURE ULCERS a. Has been treated by other various clinicians b. YES c. NO		7. THERAPIES a. Record the number of therapies received during the last 10 minutes during a day in the last 7 days b. YES c. NO	

1 - Delirium
 2 - Cognitive Loss/Impairment
 3 - Medical Alert
 4 - Communication
 5 - Anorexia
 6 - Abnormal
 7 - Febrile
 8 - Anorexia
 9 - Anorexia
 10 - Anorexia
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MILK COMMISSION

NOTICE: The Milk Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish its regulations.

Due to its length, the following regulation filed by the Milk Commission is not being published; however, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. Also, the amended text is set out below. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Milk Commission.

Title of Regulation: VR 475-02-02. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia (Regulation No. 10).

Statutory Authority: § 3.1-430 of the Code of Virginia.

Effective Date: November 2, 1991.

Summary:

The amendment renumbers paragraphs 6 and 7 of Regulation No. 10 of the current rules and regulations and inserts a new paragraph 6. This new paragraph was necessitated by the fact that under current rules and regulations, licensed distributors were precluded from advertising on side panels of Class I fluid milk containers under any conditions.

VR 475-02-02. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia (Regulation No. 10).

REGULATION NO. 10. RULES OF PRACTICE.

The following Rules of Practice shall be observed.

1. The sale of milk products shall be in containers of the size and butterfat content as specified by the regulations of the Virginia Department of Agriculture and Consumer Services.

2. Except as provided in paragraph 4 below, retail prices, when established by the commission, shall apply to all sales other than wholesale or where milk is sold and consumed on the premises.

3. Except as provided in paragraph 4 below, wholesale prices, when established by the commission, shall apply to sales of milk products by general distributors or subdistributors where such milk products are resold for consumption, whether on or off the premises, and shall apply to sales made by general distributors or subdistributors to hotels, restaurants, stores, licensed boarding houses, vending machine operators and other operations which have a sales tax exemption certificate as

set forth in § 58-441.17 § 58.1-623 of the Code of Virginia.

4. General distributor or subdistributors may submit bids requested by any governing body of any municipality, county or state, or by the federal government, or by any agency operated by the above, or by colleges, universities and schools, either elementary or secondary whether or not they be public or private, provided:

A. That such sales are classified as Class I for the purpose of producer payments, except those sales that are made on federal reservations over which the state government has ceded jurisdiction, and

B. The general distributor or subdistributor must have been licensed by the commission to distribute milk products in the market concerned.

5. No general distributor, subdistributor or retail distributor, his officers, agents or employees, shall engage in, permit or encourage any method or device in connection with the sale of milk the result of which method or device will be to increase, or reduce the net price to purchases above the maximum price or below the minimum price, when established by the commission.

6. General distributors or subdistributors may use a milk container's side panels and labels for paid advertisements, provided:

(1) The advertisement does not promote or refer to an existing or prospective retail or wholesale customer of Class I milk products, and

(2) The advertisement, the container, or any part thereof, is without value, and

(3) The container, or proof of purchase thereof, is not referred to in the advertisement, and

(4) Any advertisement or label, other than the distributor's dairy label, does not advertise or promote any Class I milk product distributed by the distributor, and

(5) The distributor and subdistributor certifies in writing that the advertisement has been made available to all licensed distributors within the market under equal terms and conditions and lists in the certificate all of such licensed distributors, and

(6) Written approval is obtained from the office of the commission before an advertisement or an advertising program begins. Any denials must be based on subdivisions (1) through (5) above.

6. 7. General distributors or subdistributors shall not directly or indirectly:

A. Pay for advertising of milk in any place of business of a milk customer or prospective milk

customer without first having obtained the written approval of the State Milk Commission or its authorized representative.

B. Pay for advertising by a milk customer or prospective milk customer. However, a distributor may pay at the published or prorated rate, whichever is less, for the actual space of service used for the advertising of his milk.

C. Provide a milk customer or prospective milk customer with any article for handling or serving milk except on a bona fide sale. In order to be considered bona fide such sale must meet the following minimum requirements:

(1) The sale price shall be not less than the cost (including freight and installation costs) or not less than the book value based in 10% per annum year depreciation of the cost to the distributor (plus installation costs).

(2) In the event that the article has been fully depreciated on a 10-year basis the price to the milk customer or prospective milk customer or prospective milk customer shall be not less than 10% of its current replacement value whichever is the greater.

(3) In order to be considered as a cash sale, payment in full must be made by the milk customer or prospective milk customer within 31 days after installation of the article.

(4) If sale is made on other than a cash basis, as defined in *subdivision* (3) above, the following requirements shall apply:

(a) A down payment of not less than 10% of the total cost of the article must be made within 31 days after installation.

(b) Interest of not less than 8.0% per annum year must be charged on the unpaid balance due the distributor for all sales made after July 1, 1974. Interest of not less than 7.0% per annum year must be charged on the unpaid balance due the distributor for all sales made prior to July 1, 1974.

(c) The unpaid balance must be paid in full within a period not to exceed three years, by monthly payments at least equal to 1/36 of the initial unpaid balance. Said payments may be anticipated in part or in whole.

(d) Payment of the balance due must be secured in such a manner that the article may be repossessed for nonpayment.

(e) In the event any payment becomes overdue by 60 days the article must be repossessed

immediately.

D. Combine the pricing or sale of milk with any other commodity, product, or service regardless of the cost, if any, to the distributor of such commodity, product, or service.

E. Engage in any practice or practices which may tend substantially to lessen competition in, or substantially to increase the cost of, distribution of milk.

F. Advertise, transfer, sell or offer to sell at wholesale or retail any packaged Class I product purchased for resale at less than cost. Cost shall be presumed to be the net invoice or transfer price, including all applicable discounts and/or rebates, plus 6.0%, unless a lower amount can be justified to the commission's satisfaction by the licensee. When seeking to make such a justification, the licensee shall have the burden of proof on all issues, and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual prepared by Case and Company, Inc., for the Virginia State Milk Commission.

G. Advertise, transfer, sell or offer to sell at wholesale any packaged Class I product processed and packaged by their own facilities, leased, or subsidiary facilities or by contractual agreement at less than cost.

(1) Cost for Class I items sold at plant dock shall be presumed to be the total of the following cost factors:

(a) The net cost of the fluid milk computed at the established Class I rate (adjusted for butterfat content).

(b) A shrinkage factor of 2.0% of the volume of each container computed at the established Class II rate for the plant average butterfat test.

(c) The net cost of any fortification and/or added ingredients.

(d) The net container cost.

(e) The net State Milk Commission assessment cost to the licensee.

(f) The weighted average of all other platform costs as determined by the current Milk Commission cost study of "Cost Created in Processing and Distributing Milk by Processing General Distributors in Virginia."

(2) The presumptive cost for Class I items delivered to wholesale accounts shall be the product of the total platform cost as set forth in subdivision G (1) above, multiplied by the following percentages:

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More than 99 cases per delivery - Platform Cost x 1.05

From 14 to 99 cases per delivery - Platform Cost x 1.10

Less than 14 cases per delivery - Platform Cost x 1.20

However, when two or more wholesale accounts purchase Class I items from a distributor under a contractual agreement that provides for consolidated billing and payment, the average case delivery for the entire group of accounts shown on the consolidated billing shall be used in lieu of delivery volume to each individual account. For the purpose of this subdivision a case shall consist of the following terms:

Container	Units
Case of Multi quart Greater than Gallon)	1
Case of Gallon	4
Case of Three-Quart	6
Case of Half-Gallon	9
Case of Quart	16
Case of Pint	28
Case of Half-Pint	44
Case of Ten-Ounce	32

(3) In lieu of the cost determination as set forth in subdivisions (1) and (2) of this subdivision, a licensee may substitute his costs provided they can be justified to the commission's satisfaction. When seeking to make such a justification, the licensee shall have the burden of proof on all issues, and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual prepared by Case and Company, Inc., for the Virginia State Milk Commission.

7. 8. Retail distributors.

A. Shall not purchase milk except from general distributors or subdistributors licensed in the market.

B. Shall sell in a market only that milk purchased from a general distributor or subdistributor licensed in that market.

C. Shall not combine the pricing or sale of milk with any other commodity, product, or service regardless of the cost, if any, to the distributor of such commodity, product, or service for the purpose of circumventing the below cost provisions of this regulation.

D. Shall not advertise, sell or offer to sell, at retail, any packaged Class I product at less than cost. Cost shall be presumed to be the net invoice or transfer price including all applicable discounts and/or rebates,

plus 6.0%, unless a lower amount can be justified to the commission's satisfaction by the licensee. When seeking to make such a justification, the licensee shall have the burden of proof on all issues and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual prepared by Case and Company, Inc., for the Virginia State Milk Commission.

E. Other provisions of this regulation notwithstanding, no distributor shall be prohibited from meeting a lawful competitive price below his cost as determined by the provisions of this regulation provided:

(1) A written statement is filed with the commission giving the following information prior to meeting that price:

(a) The name and address of the distributor licensee offering the competitive price he anticipates meeting, and

(b) The exact price necessary to meet competition, and

(c) The effective date of the competitive price he anticipates meeting, and

(d) The effective date of his price necessary to meet the competitor's price, and

(e) Does not at anytime sell or offer to sell at a price that is less than the competitor's price.

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 450-01-0073. Pertaining to the York River Shellfish Management Area.

Statutory Authority: §§ 28.1-23 and 28.1-120 of the Code of Virginia.

Effective Date: September 9, 1991.

Preamble:

This regulation establishes the York River Shellfish Management Area and provisions to control the harvest of clams from that area.

VR 450-01-0073. Pertaining to the York River Shellfish Management Area.

§ 1. Authority, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-120 of the Code of Virginia.

B. The effective date of this regulation is September 9, 1991.

§ 2. Purpose.

The purpose of this regulation is to protect and promote the hard clam resource within the designated area of the York River.

§ 3. York River Shellfish Management Area defined.

The York River Shellfish Management Area shall consist of all public grounds located inshore of a line beginning at the entrance to the Virginia Institute of Marine Science boat basin at Gloucester Point, running Northwesterly to Buoy #30, thence Northwesterly to Buoy #32, thence Northwesterly to Buoy #34, then Northwesterly to Pages Rock Buoy, thence Northwesterly and ending at Clay Bank Wharf.

§ 4. Permit required.

Each boat or vessel engaged in the harvesting of clams by patent tong from the York River Shellfish Management Area shall first obtain a permit to do so from any Marine Patrol Officer, and this permit shall be on board the vessel at all times and available for inspection. The permit shall state the name and port of the vessel, the

registration or documentation number of the vessel, the name and address of the owner of the vessel and the name of the captain of the vessel. Any change to any of the above information shall require the vessel owner or captain to obtain a new permit. This permit shall be in addition to all other licenses or permits required by law.

§ 5. Patent tong season.

A. *The lawful season for the harvest of clams by patent tong from the York River Shellfish Management Area shall be January 1 through March 31.*

B. *It shall be unlawful for any person to harvest clams by patent tong from the York River Shellfish Management Area from April 1 through December 31.*

§ 6. Time of day restriction.

A. *It shall be unlawful for any person to harvest clams by patent tong from the York River Shellfish Management Area before sunrise or after 2 p.m.*

B. *It shall be unlawful for any person to harvest clams by patent tong from the York River Shellfish Management Area on Saturdays or Sundays.*

§ 7. Penalty.

A. *As set forth in § 28.1-23 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.*

B. *The Marine Resources Commission may revoke the permit of any person convicted of a violation of this regulation.*

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0074. Pertaining to the Use of Firearms to Take Fish.

Statutory Authority: § 28.1-25 of the Code of Virginia.

Effective Dates: August 27, 1991 to September 26, 1991.

Preamble:

This regulation prohibits the taking or killing of any fish by use of a firearm. It further prohibits the possession and sale of any fish taken by firearm.

VR 450-01-0074. Pertaining to the Use of Firearms to Take Fish.

§ 1. Authority, effective date, termination date.

A. *This emergency regulation is promulgated pursuant to*

Marine Resources Commission

the authority contained in § 28.1-25 of the Code of Virginia.

B. The effective date of this regulation is August 27, 1991.

C. This regulation shall terminate on September 26, 1991.

§ 2. Purpose.

The purpose of this regulation is to prohibit the taking, catching, or killing of fish by use of firearms.

§ 3. Use of firearms and sale of fish prohibited; exceptions.

A. It shall be unlawful for any person to take, catch, or kill any fish with the use of a firearm.

B. It shall be unlawful for any person to possess or sell any fish taken or killed by the use of a firearm.

C. Nothing in this section shall prohibit the killing by firearm of a shark which has been brought to boatside by legal fishing methods.

§ 4. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0074. Pertaining to the Use of Firearms to Take Fish.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: October 1, 1991.

Preamble:

This regulation prohibits the taking or killing of any fish by use of a firearm. It further prohibits the possession and sale of any fish taken by firearm.

VR 450-01-0074. Pertaining to the Use of Firearms to Take Fish.

§ 1. Authority, effective date, termination date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. The effective date of this regulation is October 1, 1991.

C. This regulation replaces Emergency Regulation VR 450-01-0074 which was promulgated and made effective August 27, 1991.

§ 2. Purpose.

The purpose of this regulation is to prohibit the taking, catching, or killing of fish by use of firearms.

§ 3. Use of firearms and sale of fish prohibited; exceptions.

A. It shall be unlawful for any person to take, catch, or kill any fish with the use of a firearm.

B. It shall be unlawful for any person to possess or sell any fish taken or killed by the use of a firearm.

C. Nothing in this section shall prohibit the killing by firearm of a shark which has been brought to boatside by legal fishing methods.

D. Nothing in this section shall prohibit the use of underwater fishing devices, known as "bang sticks," which are attached to spears or are hand held and discharge a blank charge or projectile.

§ 4. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0075. Pertaining to the Alteration of Finfish.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: October 1, 1991.

Preamble:

This regulation establishes further controls on the handling of finfish to enhance compliance with minimum size limits, catch limits, and quotas.

VR 450-01-0075. Pertaining to the Alteration of Finfish.

§ 1. Authority, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. The effective date of this regulation is October 1, 1991.

§ 2. Purpose.

The purpose of this regulation is to establish controls on the handling of fish when fishing from a vessel or pier to enhance compliance with minimum size limits, catch limits, and quotas.

§ 3. Alteration of finfish to obscure species identification or size prohibited.

A. It shall be unlawful for any person to alter any finfish, or to possess altered finfish, aboard any boat or vessel, or on a public fishing pier (except at the fish cleaning station of the pier), such that the species of the fish cannot be determined.

B. It shall be unlawful for any person to alter any finfish regulated by a minimum or maximum size limit, or to possess such altered finfish, aboard any boat or vessel, or on a public fishing pier (except at the fish cleaning station of the pier), such that its total length cannot be measured.

§ 4. Allowances for filleting or cleaning.

A. For finfish regulated by a minimum or maximum size limit, filleting at sea will be allowed if the carcass is retained to ensure proper species identification and compliance with size limitations.

B. For finfish regulated by a minimum size, cleaning and/or filleting at sea will be allowed if the fillet or cleaning fish exceeds the minimum length for the species and at least one square inch of skin is left intact to assist in identification of the species.

C. For finfish not regulated by a size limit, filleting at sea will be allowed if a minimum of one square inch of skin is left on the fillet to assist in identification of the species.

§ 5. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

GOVERNOR

EXECUTIVE ORDER NUMBER FORTY (91)

FEDERAL LIMIT ON TAX CREDITS FOR LOW INCOME HOUSING

By virtue of the authority vested in me as Governor by the Code of Virginia and the Tax Reform Act of 1986, and subject always to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers, I hereby proclaim that all of the State Housing Credit Ceiling for the Commonwealth, as determined in accordance with the Tax Reform Act of 1986, shall be allocated for the period of October 1, 1991, through December 31, 1991, to the Virginia Housing Development Authority as the Housing Credit Agency for the Commonwealth, and thereafter from January 1, 1992, through June 30, 1994, to the Virginia Department of Housing and Community Development.

The Tax Reform Act of 1986 ("the Act"), which was adopted by the Congress of the United States and signed by the President of the United States, provides for new tax credits that may be claimed by owners of residential rental projects that provide housing for low income residents. The Act imposes a ceiling, called the State Housing Credit Ceiling, on the aggregate amount of tax credits which may be allocated during each calendar year to qualified housing projects within each state. The Act also provides for an allocation of the State Housing Credit Ceiling to the "Housing Credit Agency" of each state, but permits each state's Governor to proclaim a different formula for allocating the State Housing Credit Ceiling.

Designation of the Virginia Housing Development Authority as the Housing Credit Agency for the Commonwealth for the above-specified period will assure program continuity for the balance of 1991. Designation of the Virginia Department of Housing and Community Development effective January 1, 1992 will assure greater coordination with other state housing resources.

The Commonwealth's Housing Credit Agency for the low income housing tax credits program authorized by the Act is hereby required to consult with state housing agencies and authorities, local housing authorities and with other interested parties and to hold at least one public hearing to obtain public comments on the proposed rules for the program.

This Executive Order shall become effective September 30, 1991, and shall remain in full force and effect until June 30, 1994, unless rescinded or amended by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 14th day of October, 1991.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE MEMORANDUM 1-91

Subject:

Streamlining and reducing administrative burdens associated with the management and oversight of state financial assistance programs maintained for the benefit of local governments.

Preface:

Vastly improving communication and cooperation between state government and localities is a primary objective of this administration. Towards that end, we are working aggressively to eliminate, wherever possible and prudent, unnecessary burdens that have been saddled upon localities in years past.

By definition, local governments are in the best position to address local concerns and needs. State government should impose no more control over the affairs of localities than is reasonably necessary to implement those programs requiring state and local government cooperation. Accordingly, this memorandum, which relates to streamlining state-imposed administrative burdens on local governments, is a crucial first step toward cutting unnecessary bureaucracy and ensuring significantly greater autonomy for localities throughout the Commonwealth.

Purpose:

This memorandum establishes policies and procedures for reducing administrative burdens which may be imposed on local governments in the management of state financial assistance programs.

Applicability:

This memorandum applies to all executive branch agencies which provide financial assistance to local governments.

Effective Date:

October 16, 1991

General Policy:

State agencies shall streamline internal procedures to reduce the administrative burdens which may be imposed on local governments in the management of state financial assistance programs. The changes will reduce application, reporting, and financial requirements.

Implementation:

- A. Each executive branch state agency head whose agency provides financial assistance to local governments i.

directed to:

1. Review critically all application, management, and financial reporting requirements used in the agency to accomplish the purpose of this policy. The initial review shall begin on the effective date of this Executive Memorandum and shall be completed by March 31, 1992;
 2. Develop, as far as possible, standard nomenclature, contract requirements, and grant conditions and/or assurances to make the requirements uniform in the affected agencies;
 3. Review critically all data which is sought from local governments and eliminate any specific data not directly related to grants management, programmatic monitoring, and evaluation;
 4. Consult with local government officials, who are recipients of state financial assistance, for suggestions on how to streamline the agency's grant making procedures;
 5. Work more closely with the Auditor of Public Accounts to develop specific audit requirements relative to state funded programs to ensure that compliance issues relative to state programs are incorporated into one local audit process; and
 6. Certify to the respective secretary by October 31, 1992, and succeeding October 31 of even numbered years, that a review has been completed in accordance with this Executive Memorandum, and document actions which have taken place to carry out this policy. (Such actions will be considered in agency head performance appraisals).
- B. There is hereby established a Grants Procedures Simplification Committee which shall be composed of one representative appointed by each secretary. The Chairman of the Committee shall be appointed jointly by the Secretary of Administration and the Secretary of Finance. In addition to the representatives from the executive branch, the Auditor of Public Accounts shall be invited to appoint an official to the Committee.

The Committee shall be responsible for promoting simplification and uniformity of the application, management, and financial reporting requirements associated with state financial assistance programs available to local governments. The Committee shall serve as a medium for the exchange of information relative to the simplification and uniformity of grants management, provide consultation services to state agencies, and submit recommendations to the appropriate secretaries regarding the need for action to accomplish the purposes of this policy. The Committee shall also serve in a liaison capacity with local government officials to receive their input concerning state grant application and management

procedures.

The Committee shall report by January 1 of each odd numbered year, its actions to the Secretary of Administration.

Continuation:

This Executive Memorandum shall remain in full force and effect until superseded or rescinded by further Executive Memorandum.

/s/ Lawrence Douglas Wilder
Governor

The Legislative **RECORD**

number six

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**HJR 433:
Joint Subcommittee
Studying the Measures
Necessary to Assure
Virginia's
Economic Recovery**

◆
August 21, 1991, Roanoke

The Economic Recovery Council, chaired by Lieutenant Governor Donald S. Beyer, Jr., met in Roanoke on August 21. The agenda included the Chairman's progress report and seven speakers.

Communications Technology

Dr. Robert C. Heterick, Jr., vice president, Information Systems, Virginia Polytechnic Institute and State University (VPI), made the first presentation and began by alluding to the recession currently plaguing the nation and Virginia. Faced with such an economic crisis, it is now time to rethink some of our strategies of dealing with the economy and perhaps reordering our priorities. Information technology can make a real difference, because Virginia is now involved in a global economy and global society. There are many issues beyond the Commonwealth's control because they are the result of federal policy; however, international data networking, through computers and other machines, is an area where Virginia can take advantage of this global trend and maximize its utility for the citizens of the Commonwealth. For example, high school students can access college libraries through their home or school computers, reducing travel requirements and acquisition costs, while providing availability at any time of the day.

Building fiber optic highways throughout the state would permit this example to

DIVISION OF LEGISLATIVE SERVICES 

multiply geometrically, in terms both of people and information availability, and they could be built at a fraction of the cost of asphalt highways. This fiber optic technology would permit restructuring of the workplace, enhance the quality of life, empower the workforce, require the sharing of authority, and "flatten" the workplace. Dependence on time and place would be altered.

Talk of attracting high technology to a region and creating another Silicon Valley is working with the old model; with networking, there is no need to be physically located in Virginia to take advantage of our economy. One can telecommute from Virginia to the District of Columbia or New York City or Tokyo. What is needed for this enterprise is quality education and a skilled workforce. A robust communications infrastructure and re-thinking how we deliver educational instruction to the students who represent our future workforce are essential elements of the equation.

Reasonable governmental regulation is also needed in this area to provide (i) market incentives, (ii) policies that encourage telecommuting, (iii) open governmental information access and communications facilities to the private sector (issues of privacy and security must be balanced against availability of information), and (iv) consideration of moving information to people versus moving people to information (networking versus asphalt).

Specifically, Virginia can encourage technology development and the transfer of technology from research to the workforce:

- Every communication has a single transport system, that is, information can be obtained electronically from information suppliers through networks that can "talk" to each other.
- Fiber optics technology can be placed in every household in the Commonwealth (replace copper wiring with fiber optics).
- International networking can be part of every school, kindergarten through twelfth grade.
- The Commonwealth's communications efforts can be focused on high bandwidth services, which will encourage the private sector to devote its efforts there.
- The electronic dissemination of information can be encouraged, including allowing electronic access to libraries by every citizen in the

Commonwealth.

- Public procurement laws can be examined and changed as necessary to promote the above suggestions.

Fiber Optics and C&P

F.M. Wichard, director of Network Planning and Capital Management — Virginia, C&P Telephone, made the next presentation, which dealt with C&P's infrastructure objectives over the next several years. He explained that the switch to a fiber optics network was a long-term investment for C&P but one that was both technologically and economically necessary. C&P's current copper cable, on average, is capable of carrying 10,000 voice transmissions simultaneously. Such cable, when replaced by fiber optics technology much smaller in size, will result in the ability to carry 200,000 voice transmissions simultaneously. That capacity will double next year. In addition, the cost of copper cable is \$12-\$13/square foot compared to \$2.50/square foot for fiber optics. C&P-Virginia is one of the leaders in the deployment of fiber optics; however, other states such as Michigan put the technology to better use. The most expensive part of the replacement process is the so-called "last mile"; that is, the C&P connection from the pole to each household. The economic incentives for business to make the change are present now; they are not for residential customers.

The Future of Fiber Optics

Dr. Richard Klaus, director of the Fiber and Electro-Optics Research Center at VPI, discussed the history of the fiber optics industry, its current status, and his opinions on what could be done to stimulate its continuing development in Virginia. Fiber optics was practically invented at VPI 30 years ago. Despite this built-in advantage, however, the industry is now centered in two other states: New Jersey and Georgia (Atlanta). VPI and the Center for Innovative Technology (CIT), jointly, are attempting to change this.

The fiber optics business breaks down into four areas: communications, instrumentation, materials, and devices. The communications portion is not a Virginia industry; employment in Virginia exists in the three other areas and is concentrated in Roanoke, Salem, Lynchburg, Blacksburg, Radford, and Christiansburg. Technological research in fiber optics at VPI is funded either through CIT, or with its assistance, and has led to the granting of a number of patents. CIT then attempts to license such patents to the private sector.

Development in fiber optics communications requires the resolution of policy questions: who will create and provide the service and where will these service providers be located? Who will control the fiber optics infrastructure, the "Baby Bells" or someone else, and which will be best for Virginia? Growth in this area is possible if fiber optics to residences begins; however, this extension of service may not make sense for everyone and requires a home or personal computer.

Fiber optics in the areas of instrumentation and devices presents the greatest opportunity for percentage growth, and this is where fiber optics is already concentrated in Virginia. Research at VPI has led to the development of fiber optics sensor devices, which can survive and measure temperatures at extremes of cold or heat, or the amount of vibration in

buildings, bridges, automobiles, refrigerators, and wings on the F-15 Eagle, or for traffic control for the so-called "smart" highway program. VPI concentrates on research and development and CIT on finding the funding.

Dr. Klaus concluded with several suggestions:

1. Use the resources already available in Virginia. We have a strong technology base in fiber optics, and we have the high-end work skills in our university system. Research and development capabilities are present in the universities as well as the private sector, and with CIT acting as the catalyst, the public and private sectors should be able to feed off each other.
2. In order to maintain whatever competitive advantage Virginia may already have, we should develop a statewide fiber optics communications network. We need it now for competitive reasons, not just for the sake of having it.
3. We should take full advantage of our edge in the noncommunications segment of fiber optics technology before it leaves the state.
4. At the same time, we can ride the fallout from developments in the large fiber optics communications industry. The fallout will be large and opportunities will be available for those positioned to take advantage of them.
5. Small and mid-sized businesses will lead the way in development in Virginia, and those businesses should be encouraged and promoted.
6. Industries that represent large segments of Virginia's economy should be targeted for the industrial applications of fiber optics; such industries include the military, government, coal, forestry, transportation, and manufacturing. These business activities are already ours.

The workforce for growth in the fiber optics business is already in-state. Layoffs in formerly existing Virginia businesses have left a workforce behind. These individuals have not left the state; they have accepted other jobs. At the high-information end, VPI's best doctoral graduates are leaving Virginia because their best opportunities, technologically and in job gratification/satisfaction, are in New Jersey or Southern California. They are not leaving because of the quality of life.

Adjusting to Changes in the Marketplace

Dr. Robert J. Harris, president of Strategic Visions, Inc., of McLean, began by reiterating what the preceding speakers had already stated: the economy has been and is changing. To return to its former economic preeminence, Virginia must do more than take short-term actions to react to the recession and the structural changes in the state's economy. Virginia must position itself to take advantage of opportunities that cannot be fully anticipated.

CIT's Role with Fiber Optics

Peter Fitzpatrick, executive vice president of CIT, stated that fiber optics represents a tremendous opportunity for the Roanoke Valley. Those manufacturing businesses in the fiber optics industry that have left Virginia have left for the same reasons other industries have fled: we cannot compete with Mexico and its \$.85/hour workforce. However, the Roanoke Valley has the opportunity to become a Silicon Valley because of the synergies present there. VPI, by a factor of two, has more students involved in fiber

optics than any other institution of higher education in the world. Those students and university research faculty present unique opportunities for research and development in fiber optics, and when combined with the private businesses already present in Virginia, the opportunity for commercial success.

For specific recommendations, Mr. Fitzpatrick made the following:

1. Continue to build the fiber optics infrastructure and support the efforts of C&P and others in this area. Support in the regulatory area would greatly aid the effort.
2. Virginia should use itself as a test bed for "interactive" technology. Information services are currently offered on such a basis. Again, Virginia could encourage acceleration of the regulatory process (Judge Green and the breakup of AT&T's concerns) to aid the effort.
3. Continue efforts to find new applications for fiber optics technology.

Northern Virginia Technology Council

Dr. Ed Bersoff, chairman of BTG, Inc., of Vienna and chairman of the technology work group, then discussed the Northern Virginia Technology Council and how it could serve as a model for similar organizations throughout the state. First, however, he stated that the Commonwealth could assist its technology businesses by looking at its taxing structure, particularly those measured by gross receipts: BPOL taxes at the local level and the sales and use tax at the state level.

Dr. Bersoff explained that the Northern Virginia Technology Council was the product of an initiative of the Fairfax County Chamber of Commerce. The technology council is a business organization whose goals include the encouragement of technology education at all levels, the promotion of various interrelated (to the technology industry) businesses in Northern Virginia, and the coordination of private efforts with those of government where both sides might benefit. The council also hopes to serve as a model for similar organizations in other regions of the state. Such organizations would thereby benefit themselves and their regions and allow for the establishment of a statewide networking system. The Northern Virginia Technology Council has raised approximately \$100,000 to pursue these goals.

Role for Planning District Commissions

Tom Christoffel of the Lord Fairfax Planning District Commission suggested that using the commissions as a way to handle regional concerns might prove effective in removing purely local and parochial posturing from the planning process. For example, growth in the so-called "Golden Crescent" calls for different planning efforts than growth in the I-81 corridor because the needs are different. Planning district commissions can help with information gathering and the creation of geographic information systems and thereby enhance the process which is already in place.



September 16, 1991, Newport News

The council met on September 16, 1991, at Christopher Newport College to continue its work. The program included four speakers, progress reports relating to certain work groups established by the subcommittee, and a presentation and tour of CEBAF (Continuous Electron Beam Accelerator Facility) in Newport News.

The Center for Innovative Technology

The Honorable A. Linwood Holton, former Governor of Virginia and the President of the Center for Innovative Technology (CIT), stated that in his view technology is the future and that it also represents the future of Virginia's economy. However, the technology business is a long-range proposition and taking the short-sighted view and looking for immediate returns is often counterproductive. CIT's mission is both educational (science and technology research-oriented in the higher education setting) and economic (to promote the industrial and economic development of the Commonwealth), and CIT is almost exclusively concerned with new technology.

Virginia has made a tremendous investment in CIT and its various projects, among

them the fiber optics industry in the Roanoke Valley, which employs approximately 2,500 people. VPI produces almost twice as many fiber optics engineers as any other institution of higher education in the world. One of CIT's goals is to keep these graduates employed in their field in Virginia. CIT is also a part of the Software Productivity Consortium, which is in line for a \$7.2 million appropriation in the defense spending bill currently before Congress. Through CEBAF, a seven-eighths-of-a-mile electron accelerator collider is being built in Newport News. This project will permit experimentation with a free electron laser, research that may have almost immediate industrial application. To generate the necessary acceleration for these atomic particles, CEBAF is also on the leading edge of superconductive materials, cryogenics, and magnets. These sorts of technological products are now available in Virginia; research in industrial, as well as scientific, application is ongoing.

In terms of the short-run projects that can be implemented, Governor Holton mentioned expanding to all community colleges the small business extension service currently operated as pilot programs at nine of them. These nine institutions have responded to 454 inquiries. In response to a question, Governor Holton estimated that the program could be expanded to all community colleges at a cost of \$1.5 million. He also discussed reinstating budget cuts in research projects that have economic potential, pointing out that corporations successful in the private sector sustain their research and development expenditures even in times of fiscal crisis.

The Role of Exports and Foreign Trade

J.E. Justice, president of Alliance International, Inc., and chairman of the export work group, and Dr. J. Antonio Villamil, chief economist for planning for the United States Department of Commerce, made a joint presentation. Dr. Villamil cautioned the panel against taking too narrow or parochial a view on the subject of economic recovery. We are now operating in a global economy and the agendas of Congress and the states, which are interrelated, should be the same. In the nation and in Virginia, neither consumer spending nor construction will experience much growth over the next several years. Federal spending will also decline. However, the demand for goods and services will grow at a faster rate than the rest of the economy. Exports and foreign trade will intensify, but so will competition.

In an effort to stimulate exports, the U.S. Department of Commerce has established a "one stop shopping" number (1-800-US TRADE) as a data bank source. A U.S. Trade Data Bank has been created and placed on a CD-ROM disk. The United States' advantage is in the area of high value-added goods and services, where knowledge is important (e.g., medical-related goods and services). Because the nation has an advantage in this area, the protection overseas of intellectual property rights, through patents, trademarks, and copyrights, is an important consideration. Moreover, the human "infrastructure," an educated and skilled workforce, must continue to be upgraded if we are to maintain the knowledge advantage. To encourage direct foreign investment in the United States, our legal and regulatory barriers (taxes and tariffs) must be geared to creating the so-called level playing field. In Dr. Villamil's opinion, the top priority in this area is the new General Agreement on Tariffs and Trade (GATT).

Mr. Justice noted that on a statistical level, exports constitute more than 10% of Virginia's economy and accounted for almost 40% of the

growth in the nation's GNP over the last three years. He stated that Virginia exports had grossed \$5.8 billion in 1987, \$7.2 billion in 1988, \$8.0 billion in 1989, and \$9.5 billion in 1990, and that each billion dollars of increased foreign trade created 15,000 - 17,000 jobs in Virginia.

Infrastructure

Pat Choate, a nationally known economist and author, made the infrastructure presentation and began by stating that up to one-half of the decisions made by business are in response to some government (federal, state, or local) decision or action. Investment in public capital, or infrastructure, is one of the most important decisions or actions taken by government in terms of what is important to business.

Mr. Choate then summarized a survey conducted by the U.S. Census Bureau entitled "Industrial Location Determinants." The survey, which looked at 36 determinants on a scale of 1 to 100, was topped by infrastructure concerns, which netted 50 of a possible 100 points. The availability of roads, bridges, and water and wastewater treatment plants that satisfy EPA standards and allow for immediate hookup was the most important determinant. Next (30 points) was a community college system that could provide technical education or vocational training for the workforce. Business did not expect to find a trained workforce upon arrival; it expected to find a workforce sufficiently educated to be trained further to meet the needs of the company. Near the bottom of the list were tax breaks, which received 2 points.

Because of declining investment in infrastructure and because of deteriorated infrastructure, one-third of the communities in the nation are out of the economic development business and may not even know it. In order to balance budgets and reduce spending, infrastructure spending has been cut back. In addition, spending decisions have not been wisely made — insufficient resources have been devoted to repair, maintenance, and rehabilitation, and the infrastructure fails to last its entire useful life.

This is more than a state and local government problem; it emanates from the national level. The federal government has neither a national vision nor a national capital budget. Every state and major corporation has a capital budget, but not Congress. Although the states depend on Congress for funding, without a capital budget, there is uncertainty about cost-sharing and about timing (when will funds be released). Without certainty, planning at the state and local level is adversely affected. Trust fund moneys are held up to help with the federal budget crisis; slow payouts range from the highway trust fund to unemployment insurance.

Mr. Choate suggested two reforms at the federal level: (i) a federal capital budget and (ii) the transfer of user fees to the states to be spent for the purpose promised (sort of "truth-in-budgeting"). The massive underinvestment in infrastructure over the last 20 years cannot continue; states must meet the needs of business with regard to infrastructure or they will be out of the economic development business.

Mr. Choate then commented on foreign trade. In the 1950s and 1960s foreign trade accounted for 8% of GNP.; now it is close to 25%. At the same time, we have a \$90 billion trade deficit. He disagreed with the significance of the GATT agreement, because he did not believe it could effectively deal with the problem of trade among the nations. According to Mr. Choate, there are four kinds of markets: (i) communist (declining if not

dead, but its remnants will be around for the rest of our lifetimes), (ii) mixed model (private/public interrelated), European or Common Market, (iii) Anglo-American (private entrepreneurship subject to certain governmentally imposed rules such as antitrust), and (iv) Asian (blend the power of the state with the flexibility of the market). GATT was formed with the belief that the Anglo-American economic model would prevail or be adopted by all, a belief that now appears unlikely. The Asian bloc represents a formidable competitor operating under an inherently incompatible economic model: antitrust versus cartel. The entire Japanese financial system supports certain targeted industries with full governmental backing. At the same time exclusive distribution systems prevail in Japan. No American company can compete, not IBM, General Motors, or Ford. Anyone who doubts this proposition need only look at the small consumer electronics industry, if not the automobile industry. The question then becomes how do we expand trade with them without a radical change in either system or the imposition of punitive measures. How do we bridge the inherent incompatibility? Mr. Choate did not answer the question.

He stated that 75% of job development would come from the expansion of existing industries, which is dependent on infrastructure and a trained workforce. He also stated that the states had become too enthusiastic in attempting to attract economic development and foreign investment, too enthusiastic in the sense that the price paid was too great for the kinds of jobs created. To be valuable, the jobs need to be high either on the management side or the knowledge side. In addition, according to the IRS, American manufacturers report 3.1% profit levels on sales, while foreign manufacturers report .8% profit levels on sales. The foreign profitability report applies across the board to Canadian, Japanese, and European manufacturers, raising the questions of whether "dumping" or tax cheating is part of the picture.

Mr. Choate concluded by saying the U.S.-Mexico trade agreement currently being negotiated required further scrutiny. Given the labor cost differentials, both American and foreign-based companies doing business in the United States may be compelled to locate in Mexico to keep their costs down. Safeguards to prevent this from happening need to be built into the agreement.

Technology Work Group — Progress Report

Dr. Ed Bersoff, chairman of the technology work group, updated the subcommittee on its efforts. First, in terms of what the Commonwealth can do to aid its technology businesses, he stated that the industry needed capital formation alternatives or sources of financing. Among the sources discussed by the work group was using the Virginia Retirement System to provide "seed capital" for start-up businesses, subject to whatever restrictions might be necessary to safeguard the integrity of state employees' pension funds. Other states have tapped their state pension funds, and it appears that the process may be implemented prudently. VEDCORP was also suggested as a possible financing source. Tax issues were mentioned as ways to increase the availability of capital. Thus, reinstating favorable tax treatment of capital gains and of research and development, or reenactment of the investment tax credit at the federal level, would assist capital formation. At the state and local level, reworking the BPOL tax or the state sales and use tax would help technology businesses. The creation of a State Technology Council as an information clearinghouse and to promote the industry as a whole would be beneficial. Removing the barriers to a statewide fiber optics network, including to the home, would help industry. Finally, the commercialization of university research, with faculty receiving financial incentives for successful projects, would help technology businesses. Current rules and regulations require faculty members to resign and start their own businesses to reap financial rewards.

Second, the technology industry can assist the Virginia economy in a number of ways. Business could fund "eminent technology scholars" programs in our university system. Statewide centers for technology excellence, emulating VPI in fiber optics, or CIT in software engineering, or applied light sources at CEBAF, or biomedical applications at the Medical College of Virginia, should also be encouraged.

Third, Dr. Bersoff discussed holding a technology-based world's fair in Virginia in the latter half of this decade. Exhibitions could be held at the various technology centers throughout the Commonwealth and would serve to promote and encourage the business of technology in Virginia. When the fair was concluded,

the perceptions and image of Virginia as a (or the) technology center would have been created, and valuable infrastructure would have been left behind as a byproduct. However, our focus on this singular project should not be allowed to obscure or deter our efforts in implementing the other technology work group recommendations, many of which can be realized in the short term.

He concluded by stating that we need to exploit the relationship between our universities and the business community. Although they have separate agendas, where an appropriate balance can be struck, university research agendas should be set which have private industry, and therefore commercial, applications.

Exports Work Group — Progress Report

Mr. Justice observed that financial incentives could aid our foreign trade efforts. Tax incentives would help marginally, and financial guarantees for businesses first getting involved in exporting overseas would prove helpful. In addition, cultural exchange programs organized through our university system could help provide the Commonwealth with a more international perspective. Finally, Virginia needs to develop a statewide, coordinated strategy for exploiting the foreign marketplace, and the programs created to implement that strategy should be highly visible.

Jerry W. Giles, manager of the international division for Crestar Bank, spoke next and suggested that certain specific actions should be considered. First, most Virginia businesses have no experience in foreign trade and have not dealt with the sorts of risks involved in such trade, which are not normally encountered in purely domestic business. In addition, in 1987 Virginia had seven full service international banks; we now have three and of those three, only Crestar is generally available to service export business. Therefore, the private networks available in the past to serve, nurture, and guide newcomers in the export business are not in place, and because substantial changes are not expected in the economy or the banking environment in the next 18 months, the situation is not expected to improve. The Commonwealth should step into the vacuum to encourage the process, and the new export program embarked on by the Small Business Services arm of the Department of Economic Development is the sort of program we need to assist efforts to expand the state's exploitation of foreign trade.

Next, because the citizenry acts in whatever way is perceived as advancing its own self-interest, financial incentives are needed to allow Virginia businesses to be more competitive in the international marketplace. Such incentives can take the form of outright grants or tax breaks, whatever business can see as improving the bottom line.

Capital Formation Work Group — Progress Report

Staff updated the subcommittee on the progress of the capital formation work group. The consensus of the work group is that there is no shortage of capital, only an unwillingness by investors to take a risk and invest or, on the part of banks, to lend. The recession in general, and the state of the real estate market and the regulatory environment facing banks in particular, was the cause of the statewide malaise affecting investors and the banking industry. The work group is very much concerned about the future of Virginia's banks and the fact that our banks are the targets of out-of-state banks. It is believed that the shift of control to out-of-state banks will hurt Virginia businesses and economy. Unfortunately, because

federal law preempts this area of the law, it is not believed that the General Assembly, or this work group, can have any impact on effecting the changes necessary to protect or aid Virginia.

The same belief pervades the work group's consideration of tax issues. Again, the Internal Revenue Code needs to be changed, not the Code of Virginia. The Lieutenant Governor asked staff to seek the work group's reconsideration of this point. Even if marginal changes only can be made, Virginia can serve as a model for the rest of the nation while making itself a favorable place to do business.

Finally, the work group was of the opinion that Virginia ought to do whatever it can to help small business. If growth is to occur, it will happen with small business, and small business needs the information and assistance that government can provide. Big business has access to capital at the state, national, and international levels. Small business does not, and this is an area where government can furnish positive assistance.

CEBAF Tour

The meeting was followed by a tour of CEBAF, a project with a total budgeted cost of \$551 million when completed. Although various portions of the accelerator facility are now complete and available for use, and more will be put to use later this fall, completion of the entire facility will take another two to three years.



The Honorable Donald S. Beyer, Jr.,
Lieutenant Governor, *Chairman*

Legislative Services contact:
John G. MacConnell

HJR 334: Joint Subcommittee Studying the Use of Vehicles Powered by Clean Transportation Fuels



September 27, 1991, Richmond

CNG

Rewell A. Bynum, associate director for pupil transportation services in the Virginia Department of Education, discussed the impact of the federal Clean Air Amendments of 1990 on school bus operations in Virginia. Mr. Bynum noted that demonstration projects involving a variety of clean fuels are in operation in several states but focused his remarks on projects involving compressed natural gas (CNG), particularly that in Garland, Texas. Such projects, and data supplied by natural gas suppliers, companies specializing in conversion of vehicles to natural gas fuels, the U.S. Department of Transportation, and others, will assist in the development of conversion projects in Virginia, Mr. Bynum explained.

In June of 1991, the Virginia Department of Education included discussions and demonstrations of use of CNG in a statewide meeting at which approximately 120 school divisions were represented. Following the meeting, the department provided local school divisions with (i) information about legislative initiatives related to alternative fuels considered by the 1991 Session of the General Assembly and (ii) a survey that solicited information on the number and age of gasoline-powered local school division school buses, access to natural gas distribution lines, and school division interest in conducting a demonstration project involving conversion of gasoline-powered school buses to CNG. Based on this survey, six school divisions are being considered for CNG pilot projects: the City of Portsmouth and the Counties of Brunswick, Hanover, Stafford, Tazewell, and Wise.

Mr. Bynum pointed out that some localities, which would otherwise be interested in this kind of project, cannot participate because they either have already converted their school bus fleet to diesel-powered buses or because they have no access to natural gas distribution lines. Most school buses in Northern Virginia, for example, are now diesel-powered. Some

school divisions expressed a desire to await availability of school buses with CNG engines supplied as original equipment by the manufacturer. Because of the considerable investment already made in diesel buses, many school divisions are interested in the evolution of "clean diesel" technology. One advantage of diesel engines over gasoline engines, Mr. Bynum stressed, was a reduction in engine fires.

In reply to a question about the department's apparent stress on CNG conversions, Mr. Bynum explained that concentration on this single alternative fuel will enable the department and the school divisions to move more quickly. Mr. Bynum emphasized that whatever the department might undertake in promoting alternative fuels, the safety of school children was of paramount importance.

C. Frank Dixon, Jr., director of transportation for Fairfax County Public Schools, pointed out that Fairfax County was interested in alternative fuels, but that they had very few gasoline-powered school buses — the newest one being a 1982 model that had already been driven more than 100,000 miles. He told the subcommittee that the county will be using a dual-fuel security vehicle, and that it was holding discussions with Washington Natural Gas and the

Virginia Department of Transportation about future projects involving vehicles powered by CNG. Mr. Dixon concluded his remarks by mentioning the county's need, in any CNG project, for a fast-fill refueling facility that would be available 24 hours a day.

Governor's Plan

O. Gene Dishner, executive director of the Virginia Department of Mines, Minerals and Energy, drew the subcommittee's attention to the Governor's recently announced energy conservation plan, one component of which is promotion of energy efficiency through conversion of local government vehicle fleets to alternative fuels. Mr. Dishner reported that \$400,000 would be made available statewide as grants to assist in all phases of conversion, operation, and monitoring of local alternative fuels projects and that requests for proposals had already been sent to local governments. Staff provided the subcommittee with copies of a press release providing more details on the Governor's energy initiative.

Methanol-Fueled Diesel Engines

Roger Parry, program manager for Detroit Diesel's alternative fuel project center, discussed the status of his company's alcohol fuel engines. Mr. Parry pointed out that, since 1986, Detroit Diesel has had methanol-fueled diesel engines in service with several transit systems and private businesses in the United States and Canada and that one of his company's methanol-fueled diesel engines received federal Environmental Protection Agency certification in June of this year.

He went on to discuss the environmental benefits of using neat methanol fuels and the relative ease with which conversion to methanol-powered engines could be made, owing to the similarity of methanol diesel engines to standard diesel engines. He felt that compared to some other alternative fuels, such as CNG, conversion to methanol fuels would involve less "culture shock" to the public, mechanics, and filling stations. Because methanol fuel is a liquid, it can be stored, transported, and vended to consumers in much the same manner as gasoline, and mechanics already familiar with diesel engines require only a two-day training course to acquaint them with methanol diesel engines.

Mr. Parry and Raymond A. Lewis, president of the American Methanol Institute, answered several questions concerning the cost of methanol fuels and their advantages and disadvantages compared to CNG. They responded that even though the cost of a methanol diesel engine is roughly twice that of a conventional diesel engine, methanol diesel technology is still cost competitive with CNG engines if one considers the costs of engine modifications, compressors, and fueling stations needed for CNG operations. Use of methanol fuel in a diesel engine, they explained, reduces exhaust soot and allows the use of catalytic converters, resulting in the reduction of a broad range of pollutants.

Speaking for the Washington Metropolitan Area Transit Authority (WMATA), J. Roderick Burfield explained that, at least for the short term, WMATA planned to use particulate traps on its existing diesel-powered buses to meet federal clean air standards. While methanol and other alternative fuels presented interesting possibilities in the longer term, the need to complete the Metro rail system in the Washington suburbs was likely to limit WMATA's options for the immediate future.

Consumer Acceptance

The meeting's concluding presentation was made by Charles Risch, an alternative fuels specialist on the environmental and safety staff of Ford Motor Company. Mr. Risch began with the observation that there are two reasons for developing motor fuel alternatives to gasoline and diesel fuel: (i) energy security (reduction of America's dependence on imported petroleum) and (ii) air quality. Observing that the relative potential for air quality improvement to be derived from use of specific alternative fuels was still the matter of scientific debate, Mr. Risch pointed to Ford's involvement with vehicles powered by liquified petroleum gas (LPG, also referred to as propane), ethanol, compressed natural gas, and electricity.

He pointed out that a major factor limiting consumer acceptance of alternative fuel technology was the public's apprehension over unavailability of fuel and that industry's response — at least in the short term — was likely to be a "flexible fuel" vehicle. Such a vehicle would be equipped to run on gasoline, alcohol fuel (either methanol or ethanol), or any combination that contained at least 15% gasoline. Public acceptance of CNG fueled vehicles, he stated, would continue to be limited by the relatively short range of these vehicles and the amount of space occupied by fuel cylinders. Acceptance of electric powered vehicles would be limited by battery size, weight, and replacement cost; slow acceleration; and limited range.

He urged that any government-mandated alternative fuels program (i) be "fuel neutral" (not give any preference to one alternative fuel over another) and (ii) allow the industry sufficient time to fully test and refine its products prior to their introduction to the general public. Excessive haste, he warned, could result in less-than-fully developed products that would gain limited approval by the public, resulting in a delay in achieving any such program's energy security and environmental protection goals. Fuel neutrality, he suggested, would permit the use of different fuels to meet differing user needs and differing regional air quality needs.



The Honorable Arthur R. Giesen, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

The Virginia Coal and Energy Commission

July 17, 1991, Richmond

At its second meeting of the year, the Virginia Coal and Energy Commission received interim reports on the feasibility of wheeling additional electric power from Southwest Virginia to the east, the progress made to date on building the new natural gas pipeline in the eastern part of the Commonwealth, and the status of proposed cogeneration projects.

HJR 441 (1991): The Wheeling Study

Pursuant to HJR 441, the State Corporation Commission (SCC) and the Virginia Center for Coal and Energy Research (VCCER), with the cooperation of Virginia Power and the Appalachian Power Company (APCO), have begun a study of the steps that could be taken to enable the wheeling of 100 megawatts or more of power, prior to 1988, from electric power plants in Southwest Virginia. According to the resolution, the study is to include an examination of the:

- Amount of transmission capacity in Southwest Virginia that could feasibly be allocated for wheeling.
- Enhancements that could be made to the existing Southwest Virginia transmission system to accommodate wheeling.
- Feasibility, in addition to the lines already proposed by Virginia Power and APCO (Wyoming to Cloverdale/Joshua Falls to Ladysmith), of constructing a new electrical transmission line directly from the Virginia coalfields.

The SCC is currently analyzing (i) the physical configuration of the regional transmission system and the improvements (other than new line construction) that could be undertaken to enhance transmission capacity, (ii) the transmission operating practices of AEP/APCO and regional utilities to determine if the practices maximize transmission capacity without adversely affecting the reliability of the transmission system, (iii) current and projected wholesale power exchanges to determine if they saturate the regional system in terms of its ability to accommodate new load, and (iv) Virginia Power's capacity needs (demand). Based on preliminary findings, the SCC expects to announce in its next interim report the specific quantity of additional transmission capacity available on the current system.

The VCCER is now attempting to determine the feasibility of constructing a new electrical transmission line from the Virginia coalfields to the east. Such a line would probably cost over \$100 million. To date, the center's study has focused on an analysis of the following factors, which will influence the feasibility of constructing the line:

- Whether the line would provide redundant transmission capacity.
- Whether the line would provide backup transmission capacity for power purchased by Virginia Power.
- The economic benefits and transmission capacity improvements that could be achieved by an investment of this magnitude.

The center is viewing the possible line as an interim measure which would need to be functional with or without construction of the lines previously proposed by Virginia Power and APCO. According to the preliminary findings of the center, while several routes are possible for the siting of a new line, without the construction of the Wyoming to Cloverdale 765 kilovolt (KV) line, there are "significant negative factors" affecting the feasibility of constructing a new transmission line from the coalfields.

APCO officials indicated that they were nearing final selection of a route for the proposed Wyoming to Cloverdale 765 KV line. The route will be recommended by a research team that has conducted environmental siting studies since August of 1990 in order to pick a corridor with the least environmental impact. The team held workshops (public meetings) in Virginia and West Virginia and encountered extreme opposition to the proposed line in several West Virginia communities. In fact, a workshop scheduled to be held in Union, West Virginia, was cancelled for fear that violence would break out. Common criticisms of the proposed line are that the electromagnetic fields created by the line may have adverse health effects, property values in the vicinity of the proposed line will decline, and construction of the line will hurt the coal industry. APCO officials believe the proposed line will help the coal industry.

With regards to current wheeling capacity, APCO officials explained that while constraints on their transmission system capacity prevent them from entering into long-term wheeling contracts, the company believes it can provide limited wheeling capacity (200-250 megawatts) on a short-term conditional basis. Conditions would include:

- Expiration of the agreement in 1998, unless transmission reinforcements are successfully completed by that time.
- Transmission under the agreement would be curtailed if APCO was forced to curtail its current obligations.

■ Transmission under the agreement would be curtailed if APCO's Cloverdale/Lexington line is lost.

Virginia Power officials announced that they would soon be filing their application to construct the Joshua Falls/Ladysmith line. The proposed line's effectiveness is dependent upon (i) completion of the Wyoming to Cloverdale line and (ii) further improvements being made to the transmission system north of Virginia Power's service area. The company also expects to solicit bids for additional peaking capacity within the next several years. Currently, the utility is meeting with the Nuclear Regulatory Commission to determine the feasibility of making life-extension improvements to its existing nuclear power plants.

Natural Gas

Pipeline Construction Project

In 1988, Virginia Natural Gas, a wholly owned subsidiary of Consolidated Natural Gas, received approval from the SCC to construct a new natural gas pipeline from the Prince William/Fauquier County line to a point just east of Williamsburg. The two existing interstate gas pipelines have reached capacity and recently proposed power generation facilities, which

will burn natural gas, require additional transmission capacity. The company began construction of this 135-mile-long pipeline in April 1991, after obtaining approximately 200 local, state, and federal permits. The new pipeline will bring gas service to the counties of Hanover, New Kent, Charles City, Essex, King and Queen, Middlesex, and Gloucester. Seventy-five percent of the new pipeline will be located on existing power line rights of way. The pipeline project, the largest of its kind in Virginia during the past 35 years, has a maximum daily capacity of 225 million cubic feet. This capacity could be doubled in the future by increasing compression. Primary customers to be served by the new line include Mitsubishi's Doswell power plant (650 megawatts), Virginia Power's Chesterfield 8 unit, and the City of Richmond. According to company officials, only 70% of the current maximum daily capacity of the new pipeline will be used immediately.

Cogeneration Projects

The commission received an update on the status of four coal-burning cogeneration projects sponsored by Hadson Development Corporation. Two of the projects (Southampton and Altavista) are nearing the end of construction and are scheduled to go on-line before 1992. Hadson's Hopewell facility is expected to be completed and operating early in 1992. The company's Buena Vista project, anticipated to burn 250,000 tons of coal annually, has yet to receive the required air permit. However, company officials expect to go public with an air permit before fall and hope to begin construction of the facility shortly thereafter.

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The Honorable Daniel W. Bird, Jr., *Chairman*
Legislative Services contact: John T. Heard

HJR 448: Joint Subcommittee Studying the Incentives and Obstacles Facing Businesses When Making Location Decisions in Virginia

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September 26, 1991, Richmond

During its second 1991 meeting, the subcommittee heard testimony from experts from economic development, the community college system, and the business community.

Business Incentives

Secretary of Economic Development Lawrence H. Framme III reported that 95% of all economic development efforts are focused on industrial recruitment to ensure a brighter economic future for Virginia. He pointed to the need to cut across secretarial lines in order to

meet market demands for flexible and quick decisions and to provide more services with less money as a requirement of the state's budget. A review of the incentives offered to existing and new industries by the Commonwealth includes direct financial assistance, low interest loans, tax adjustments, and a wide range of industry services, including employee training.

Notwithstanding the incentives offered, the creation and maintenance of a favorable business climate in Virginia must be one of the most important considerations. In the area of environmental permitting, Secretary Framme indicated that through the creation of a more formal framework between the Secretariats of Natural Resources and Economic Development much is being done to ensure that permits are being issued in a timely fashion and that the regulatory community is getting a better understanding of what is important to business. It is the chair of the Permit

Assistance Group (PAG) to ensure that cooperation between the business and regulatory community is encouraged and to address problems as they arise.

Robert G. Lawson of the Department of Economic Development distributed a report prepared by his agency that compares Virginia's business tax and financial incentive programs with those of nine other nearby states (see Figure 1).

On behalf of the Virginia Community College System (VCCS), Dr. Freddie Nicholas and Joy Graham reported that there are currently 23 community colleges located throughout the state, serving as a vital link in assisting in Virginia's economic development efforts. Ms. Graham provided the following information:

- By the year 2000, the average age of Virginia's workers will be 36.3 years (up from 29.9 in 1980).
- 92% of Virginia's work force in the year 2000 is employed today.
- New jobs require 13.5 years of education, compared to the current 12.8 years.
- Federally funded Tech Prep programs will be offered by VCCS this year throughout Virginia.

■ VCCS already provides specialized training and retraining to business, industry, and government in Virginia.

■ Ten community colleges are involved in cooperative Technology Transfer Programs with the Center for Innovative Technology.

■ More than 700 Virginia businesses, industries, and governmental agencies have training arrangements with VCCS.

Suggestions for improvement in the area of business incentives were also made. Use of the Governor's Contingency Fund to provide business with initial start-up or related capital to defray costs was identified. Also mentioned was the inclusion of the business community as a member of Virginia's economic development team. Citing a "happy business" as the best incentive, it was recommended that a tax-exempt entity (i.e., 501 (c) (3) of the Internal Revenue Code) be created to promote Virginia's economic development nationally and internationally. This entity could raise money from the corporate community with matching funds from state and local governments.

Perceived Obstacle — Environmental Permitting

The majority of the testimony heard by the subcommittee was on the issue of the environmental permitting process. Concern was expressed by a number of business leaders and industry association executives that Virginia loses a significant number of businesses to North Carolina and other states because of the time it takes regulatory agencies to process the required permits. Through anecdotal information, it was reported that in the instance of a cogeneration plant, it took 42 months to obtain the requisite regulatory permits. In another instance, processing delays in Virginia caused another, similar cogeneration plant to move to North Carolina where the required air and water permits were received within six months and the permit for an ash landfill took only three months.

	ALA	ARK	GA	MD	NC	OH	PA	SC	TN	VA
Grants										
Local Gov't, infrastructure	■					■	■		■	■
Research & Development		■			■	■	■			■
Business Incubators		■	■		■	■	■			■
Bonds										
Tax-exempt Bonds (IDBs)	■	■	■	■	■	■	■	■	■	■
Taxable Bonds (IRBs)				■		■	■	■		
Pooled or Umbrella Bonds		■				■	■	■		■
Bond guarantees		■		■						
Loans & Loan Guarantees										
Minority Business				■		■	■			
Infrastructure				■			■	■		■
Fixed Assets	■	■	■	■		■	■	■	■	■
Research & Development					■					
Exports		■		■				■		■
Linked Loans	■			■		■				
Interest Subsidies				■						
Equity & Near-equity Financing		■		■	■		■	■		■
Customized Industrial Training	■	■	■	■	■	■	■	■	■	■
Enterprise Zones	■	■	■	■		■	■		■	■

Figure 1. Industrial Development Incentives

Source: Department of Economic Development

General areas of concern relating to the environmental permitting process were discussed. Testimony was presented reflecting concern that Virginia was losing business because:

- Regulatory agencies are hostile to industry;
- Business does not know at the outset what they are required to do;
- Regulations are constantly changing;
- Agency interpretation of regulations lacks consistency;
- No effective means exist in Virginia for weighing competing concerns;
- The permitting process is disjointed and does not promote cooperation; and
- Regulatory agencies are understaffed.

Specific recommendations for the streamlining or other improvement of the environmental permitting process were requested by subcommittee members. In response, the following suggestions were made:

- Support the reassignment of Virginia to EPA Region IV, headquartered in Atlanta, rather than EPA Region III, in Philadelphia, as currently assigned.
- Creation of "one-stop shopping" in Virginia.
- Development of a State Implementation Plan (SIP) to be approved by EPA so that permits may be issued without federal review.
- Implementation of an annual operation permit program.
- Change of attitude by environmental regulators.
- Adoption of an active stance toward business.
- Creation of an ombudsmen network inside the state system to assist business.
- Increase number of permit reviewers or hire consultants to address personnel shortages and backlogs.
- Provide industry at the outset with a schedule of the review process and how and when the permit process will be carried out.
- Establish a fixed fee schedule for the processing of permits.
- Disallow the imposition of stricter standards by localities than what is required at the state level.

The subcommittee agreed that before its next meeting in November, staff would solicit comments from the regulatory community based on the testimony heard by the subcommittee at its first two meetings. At its next meeting, a work session, the subcommittee will review those comments and make recommendations for its future activities.



The Honorable Alan A. Diamonstein, *Chairman*
Legislative Services contact: Maria J.K. Everett

Joint Rules Committee



August 30, 1991, Richmond

The Joint Rules Committee met on August 30 to discuss legislative agency budgets and to appoint a new director of Legislative Automated Systems and a new chief of the Capitol Police. William E. Wilson, deputy director, was promoted to director of Legislative Automated Systems to fill the vacancy created by the retirement of Charles Hubbard. Lonnie Craig was appointed to head the Capitol Police, a position that became open when A.P. Tucker announced his retirement.

Discussion on the budget issues began with a briefing from Becky Covey, staff director of House Appropriations, and John Bennett, staff director of Senate Finance. Their presentations highlighted three main issues for the Committee's consideration: requests by legislative agencies to carry forward unexpended FY 1991 balances, FY 1992 budget reductions for each agency, and legislative budgets for the 1992-1994 biennium.

Carrying Forward Unexpended FY 1991 Balances

Last spring, the Department of Planning and Budget notified executive agencies that their unexpended balances could be carried forward into the second year, if they were not needed to offset a FY 1991 revenue shortfall. These agencies were notified in September that they could use their unexpended balances to offset second-year budget cuts. The only exception applied to balances resulting from unplanned circumstances, such as actual caseloads below projected levels. In June, the Speaker notified legislative agencies that they could request carryovers of unexpended FY 1991 balances for consideration by the Joint Rules Committee. Eight agencies appeared before the committee in August to request carryovers totaling \$505,497. This figure represents less than half of the balances available from legislative agencies. Most carryover requests indicated that the funds would be used to offset second-year budget cuts.

Distribution of FY 1992 Reductions

The first-year budget cut for legislative agencies totaled \$1,297,409 and was allocated based on agency size. Cuts ranged from 1% to 5% for

each of the two rounds of reductions. An exception was granted to the second-round cut for the Auditor of Public Accounts and the Capitol Police, in order to avoid personnel layoffs. The second-year budget cut for legislative agencies is approximately \$1.4 million, which will be slightly offset by funding provided last session to cover social security increases related to Medicare. Agency heads were notified that their tentative second-year reduction would be about 7% greater than their first-year cut and were given the opportunity to respond. Senator Stanley Walker was appointed to chair a subcommittee to hear any appeals from the agencies. No agency elected to appeal its tentative second-year cut.

Legislative Budgets for 1992-1994

Legislative agency budget proposals totaled \$43,997,884, \$158,270 under the 1992-94 base budget. Addendum requests from four agencies amounted to \$583,115.

Action by the Joint Rules Committee

The committee approved the carrying forward of the unexpended FY 1991 balances of legislative agencies, the distribution of the second-year budget cuts, and the base budgets for the 1992-1994 biennium. However, the committee decided that further review was necessary regarding the individual addendum requests, and a subcommittee was appointed to review them.



The Honorable A.L. Philpott, *Chairman*
The Honorable Stanley C. Walker, *Chairman*

Legislative Services contact:
Virginia A. Adkins

HJR 447: Virginia Tech Forestry and Wildlife Program



September 12, 1991, Richmond

The commission, established to study the need for autonomous school or college status for the forestry and wildlife program at Virginia Tech, held a public hearing in Richmond.

Chairman Dickinson told panel members that subsequent to the commission's organizational meeting on August 12, the VPI Board of Visitors approved a resolution recommending that the State Council of Higher Education grant its School of Forestry and Wildlife Resources status as a college equal to that of all other colleges of the university.

The schedule recommended by the Board of Visitors for implementing changes in the school's status was in accordance with that suggested by the *Proposal for a College of Forestry and Wildlife Resources*, prepared by the faculty and administration of the School of Forestry and Wildlife Resources. That schedule is as follows:

- (i) a dean of the School of Forestry and Wildlife Resources shall be named by January 1, 1992;
- (ii) the school shall operate with a separately defined annual budget starting July 1, 1992;
- (iii) the school shall be renamed the College of Forestry and Wildlife Resources on or before July 1, 1993; and
- (iv) full implementation with staffing shall be accomplished by July 1, 1994.

Commission members reviewed the proposal and were briefed on the resolution approved by the Virginia Tech Board of Visitors. At the conclusion of the public hearing, the following motion was presented and unanimously adopted by the commission:

That the Proposal for a College of Forestry and Wildlife Resources, prepared by the faculty and administration of the School of Forestry and Wildlife Resources, be endorsed as the commission's report to the Governor and the General Assembly of Virginia and that it is anticipated that any additional funding required to fully implement the proposal during the transition period between July 1, 1992, and July 1, 1994, will be provided through private sector initiatives.

Chairman Dickinson noted that the commission had fulfilled its charge and would report to the Governor and the General Assembly per its recommendation. The panel did request, however, that it be apprised of action by the State Council of Higher Education on the VPI Board of Visitors' resolution.



The Honorable V. Earl Dickinson,
Chairman

Legislative Services contact:
Mark C. Pratt

HJR 418: Joint Subcommittee Studying Mechanics' Lien Laws

July 22, 1991, Richmond

The joint subcommittee held its organizational meeting on July 22. In view of the importance of these laws to Virginia's economy, the subcommittee was charged by the 1991 Session with considering the revision and amendment of mechanics' lien statutes in Title 43.1 of the *Code*. In addition to legislators, citizen members representing general contractors, subcontractors, suppliers and materialmen, title insurance companies, and construction lenders serve on the subcommittee.

General Purpose

Virginia's mechanics' lien statutes date back to the mid-nineteenth century. They were designed to give laborers and materialmen who enhance the value of a building or structure a lien on such properties to the extent that value is added. The underlying intent of these laws at their inception was to assure those parties payment for their work and supplies in order to encourage building in a nation that was largely wilderness.

Legislative History

The Virginia Advisory Legislative Council twice studied mechanics' lien laws during the 1960s. The council's first report, in 1967, recommended, among other changes, a limited form of "direct" lien to subcontractors, laborers, and suppliers. Such liens at that time were derivative and limited to the amount owed by the property owner to the general contractor.

The second report, in 1969, focused on strengthening those laws pertaining to registration of contractors. No changes were recommended in the mechanics' lien statutes, as the council wanted to test the effectiveness of the changes enacted in 1968 before making recommendations concerning them.

In 1979, a joint legislative subcommittee again reviewed the Commonwealth's mechanics' lien laws. Although this subcommittee did not recommend changes in the relative priority given mechanics' liens, it did propose amend-

ing the way the 90-day period is calculated during which subcontractors are required to file their liens. The subcommittee also recommended the creation of a 150-day reachback provision, which limited such liens to labor and materials furnished within 150 days prior to the last day labor was performed or material furnished.

Issues Discussed

During this initial meeting, subcommittee members and observers in attendance debated the pros and cons of a number of issues to be weighed during the study.

Some felt that our mechanics' lien laws are generally archaic and out of step with our sister states and the vast majority of states in this country. (Virginia is one of only seven states which provide priority liens to subcontractors as to real property. Only a handful of jurisdictions put mechanics' liens in a superior position to construction liens.) It was noted that in some areas of the state, title insurance protects purchasers of real property from after-appearing mechanics' liens and in other areas it does not.

Supporters contended that Virginia's mechanics' lien laws have worked well. They supported the concept that when a business puts its labor, industry, and effort into property owned by someone else, that business should be protected. Changing the law will only hurt those who enhance property values and shift the risks from title insurance companies to subcontractors. It was also asserted that the real problem lies not with our mechanics' lien laws but with business practices of lenders and title insurance companies. These parties are, or should be, aware of the risks and are in a position to protect themselves.

Senator Gartlan expressed concern that title insurance companies have been converted to surety companies. He felt that title insurance companies were forced by competitive pressure to "insure over" mechanics' liens, thereby circumventing Virginia law, to meet the insistence of large lenders that their liens have priority, as is the case in most other states.

Alignment of risk is the basic issue. Virginia's alignment is such that subcontractors are protected. Senator Gartlan questioned whether construction and loan costs are lower in states with different risk alignments.

Chairman Croshaw felt that time periods, rather than lien priority, may be the real issue. Currently, a subcontractor has 90 days from the last day of the month in which he last performs labor or furnishes material, or 90 days from the structure's completion or termination of work thereon, whichever is sooner, to file his lien.

It was noted that due to industry billing practices, subcontractors actually only have a 45-day window within which to file their liens. Contemporaneous filing of liens would be extremely burdensome and costly and would alienate general contractors; thus subcontractors use the

lien law only as a last resort. Collecting under a lien is expensive and time consuming, and a subcontractor never collects all that he is owed. As a rule, contractors file as soon as they realize a problem exists with respect to their getting paid.

Future Plans

The subcommittee will hold its next meeting on a date to be determined during the week of November 11-15, 1991, just prior to the reconvening of the General Assembly the following Monday.

At that meeting, surveys will be reviewed to determine (i) which states grant priority status to subcontractor liens, (ii) relevant time requirements with respect to mechanics' liens in other states, and (iii) whether other states distinguish between commercial and residential applications of mechanics' lien laws.

Other matters to be reviewed and discussed will include:

- criminalizing certain practices by general contractor owners;

- time limitation changes, if appropriate;
- the legal capacity for title insurance companies to, in effect, serve as sureties; and
- indications, if any, of differences in construction costs and lending rates in states that do not grant priority to subcontractor liens

A third meeting will be held in December to review any legislation that may be proposed and to conclude the study. If necessary, a final meeting will be held just prior to the convening of the 1992 Session.



The Honorable Glenn R. Croshaw, *Chairman*
Legislative Services Contact: Oscar R. Brinson

SB 566/HB 1163: Fugitive Coal Dust

September 4, 1991, Richmond

Members of a Senate Commerce and Labor subcommittee and a House Roads and Internal Navigation subcommittee met on September 4 in Richmond to continue their joint study of SB 566 and HB 1163— identical bills introduced at the General Assembly's 1991 Session relating to covers on coal-carrying railroad cars.

Citizen Concerns

The legislation, which would require railroad cars travelling within the Commonwealth to be covered in a manner that would prevent their contents from escaping, was the subject of a public hearing held by the subcommittee in Roanoke on July 9. Comments at that meeting by a number of citizens who have had problems with fugitive coal dust were echoed by a Blackstone resident who advised panel members that coal dust blowing off of trains onto nearby homes and automobiles is a costly nuisance that also poses potential health hazards. The problem started, or has intensified, within the last few years, and seems much worse on some occasions.

Industry Response

The subcommittee was briefed on the components of a study to be conducted for Norfolk Southern Corporation. The rail company has hired a consultant to determine the extent of the fugitive coal dust problem, to isolate potential causes, including seasonal and weather-related effects, to conduct test-site evaluations, and to examine potential remedies. The consultant, retained in July, expects the study to require 12 months to complete, enabling data collection during each weather cycle. However, preliminary data and conclusions will be available early next year.

Other industry representatives, including those from CSX Corpora-

tion and the Virginia Coal Association, told the subcommittee that they, too, are attempting to address the problem and pledged their cooperation.

Subcommittee Action

Subcommittee members agreed that some residents whose dwellings are in proximity to certain rail lines have a legitimate problem with fugitive coal dust and that they expect the industry to responsibly and promptly respond to it. Many members commended industry representatives for their initial efforts to do so. It was the unanimous recommendation of the subcommittee to continue monitoring the situation and to meet next spring to receive a preliminary report from Norfolk Southern regarding its study.



The Honorable Elliot S. Schewel,
Chairman

The Honorable Robert B. Ball, Sr.,
Chairman

Legislative Services contact:
 Mark C. Pratt

HJR 380: Joint Subcommittee Studying Early Intervention Services for Infants and Toddlers with Disabilities

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August 19, 1991, Richmond

The joint subcommittee, which was continued from last year, held its first meeting of 1991 on August 19. The subcommittee is charged with studying the programmatic and fiscal impact of adopting public policy for the implementation of Part H of Public Law 101-476, the Individuals with Disabilities Act.

Part H Program

Part H is a discretionary five-year grant program of early intervention services to infants and toddlers with disabilities and their families. The Part H program differs from other intervention programs because it is directed at the birth-through-age-two population and because of its interagency and family focus and the emphasis on a comprehensive range of services. Federal money was made available to the states to plan, develop, and implement a statewide system that coordinates existing resources and for direct services that expand and improve existing services. All 50 states participate in Part H. Virginia's fourth year of participation commenced October 1, 1991. When the fifth year of the grant commences, a comprehensive range of services must be available to all infants and toddlers who meet the definition of "developmentally delayed." The subcommittee's most significant challenge will be to determine how much funding will be needed and to arrange funding.

At the conclusion of its first year of study the subcommittee made a number of recommendations designed to further the implementation of Part H in Virginia and to improve services to children with disabilities and their families prior to the full implementation of the Part H Program. The recommendations included expanding Medicaid coverage of Part H children, the adoption of policy, increasing interagency cooperation, and expanding sensitivity to cultural diversity. In addition to the fiscal issues, the subcommittee determined that the relationship between special education

programs and Part H and possible shortages of personnel who provide Part H services should be studied in the second year.

Implementing Recommendations

At its August meeting the subcommittee received information on what steps have been taken to implement its recommendations and to address the issues identified for study during the second year. Dr. King E. Davis, commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services, the lead agency for the Part H Program, addressed the subcommittee and noted that the recommendations have been of great significance in the ongoing planning and implementation of Part H in Virginia. Dr. King provided information on issues surrounding the definition of eligibility, progress made toward completing cost projections for implementation of Part H, the fourth-year application process, accomplishments and issues associated with local planning and implementation, and the need for cultural diversity in all aspects of the program. Dr. King reported that the federal government will allow states to remain in year four of federal participation for up to two additional years upon request of the governor and with demonstration of significant hardships. It is projected that significant federal funding increases may occur.

Medicaid

A report on progress on Medicaid recommendations was made by Bruce U. Kozlowski, director of the Department of Medical Assistance Services. His department and the lead agency are developing a joint plan for pursuing expanded Medicaid coverage for early intervention services. A task force has been formed to address Medicaid provider enrollment of community services boards and other infant programs as Outpatient Rehabilitation Agencies and is developing a resource manual for programs beginning to pursue Medicaid enrollment. A second task force is working on obtaining Medicaid coverage for services provided to children with disabilities served through the public schools.

Duplication of Services

Representatives from the Department for Education responded to subcommittee concerns about the possibility of overlap and duplication between special education services and Part H services, particularly for two year olds. Since 1972, the Virginia Code has required that special education be provided through local school divisions to children aged 2 to 21. Although there are differences in the requirements of Part B of the Individuals with Disabilities Act, which applies to special education services in the schools, and Part H, which applies to the infant and toddler

programs being coordinated by the lead agency, the definition of eligibility and many of the services are similar. Through an interagency agreement with the lead agency, the Department of Education will continue to serve two year olds who are eligible under Part B. Two year olds who are not eligible for Part B but may be eligible for Part H will be referred by the local school division to the appropriate local agency. Representatives of the Department of Education emphasized the department's commitment to early intervention services and to working with the lead agency to provide a coordinated and comprehensive system of services. Subcommittee members stated that there is a great deal of confusion about these issues in local school divisions and applauded the department's statements that representatives will be traveling to localities with explanations.

James A. Rothrock, director of the Department for Rights of Virginians with Disabilities, explained some of the Part H requirements for

interagency collaboration and how they are being met. It is hoped that this collaboration will result in less confusion and easier access to services for infants and toddlers with disabilities and their families.

The subcommittee plans to review data on the numbers of children projected to qualify under Part H and the projected cost of those services at its next meeting, scheduled for November 19th.



The Honorable Mary T. Christian, *Chairman*
Legislative Services contact: Jessica F. Bolecek

SJR 213/HJR 314: Joint Subcommittee Studying the Need for Restructuring the Commonwealth's Local Social Services Delivery Systems



August 29, 1991, Richmond

The joint subcommittee held its first meeting on August 29, 1991. The identical House and Senate study resolutions were introduced in response to a 1990 administration proposal to consolidate the management of certain local social services agencies.

Administration Proposal

B. Norris Vassar, deputy secretary of Health and Human Services, reviewed the administration's consolidation proposal for local social service agencies and gave the rationale for and addressed concerns about the proposal. He stressed that once the study resolutions were introduced during the 1991 General Assembly Session, no further action was taken regarding consolidation and that there is no current consolidation proposal. The consolidation proposal was one of the strategies developed to address the budget reduction required of the Department of Social Services. The administration estimated that once implemented, consolidation could save \$2 million general fund money annually. Consolidation was not proposed to be mandatory, but a locality that did not consolidate would lose state and federal funds. An ad hoc committee established by the administration developed a model consolidation framework, which reduced the number of local agencies from 124 to 38. Client access to physical facilities would have remained unchanged, but the number of positions would be reduced by 151. All of the positions eliminated would have been administrative rather than direct service and eligibility workers. Consolidation was to be phased in starting in July 1991 and completed by July 1992. Mr. Vassar suggested a number of potential subcommittee issues.

VLSSE

C. Earl Blythe, director of the York-Poquoson Department of Social Services and chairman of the Virginia League of Social Services Executives (VLSSE) legislative study committee, suggested that the subcommittee consider developing a framework for separating the reporting of administrative and direct costs of local departments of social services in the appropriations act, review and reevaluate the recommendations of certain previous studies relevant to the issues spelled out in the resolutions, consider devising incentives to encourage local cooperation and the efficiencies to be gained from local initiatives, and consider encouraging the state to adopt a policy increasing automated support to localities. Mr. Blythe said that if the trends of the last decade continue, Virginia will see dramatic increases in services needed for the elderly and in the area of child welfare. The VLSSE feels that child welfare problems should be addressed through preventive services and hopes to see emphasis placed on prevention. The VLSSE opposed the administration's consolidation proposal for a number of reasons, including concern about the

rapidity with which the proposal was developed and proposed to be implemented. The VLSSE was also concerned that consolidation would cause a loss of local identity and erode community support. Another concern was that the personnel savings might be illusory because personnel whose jobs were being eliminated might have bumping rights and when demoted their salaries would be frozen at current levels. Mr. Blythe reported that the VLSSE came up with specific administrative alternatives that it felt could save over \$2 million without the major upheaval that consolidation would involve and was dissatisfied that these suggestions were not considered.

Local Government

Janet Areson, representing the Virginia Municipal League (VML), stated that when the consolidation proposal was unveiled, VML's members were concerned with the short timeline and the lack of information regarding the financial, administrative, service, and legal implications of wide-scale consolidation. VML is not opposed to consolidation as a concept but is concerned with why and how it would be implemented and feels that it is not the only

option that should be considered. VML suggested that the subcommittee may wish to address and clarify the definition of administrative costs, determine how well the current social services delivery system works and how it could be improved, conduct a cost-benefit analysis of the current system, review previous related studies, determine whether federal funds are being used to the maximum extent possible, and determine the benefits of improving computer technology. The Virginia Association of Counties, represented by C. Flip Hicks, general counsel, also advocated improving the automation available to localities.

Issues for Study

In addition to the suggestions received from organizations appearing before the subcommittee, members of the subcommittee proposed a number of issues for study. Some of these include determining why Virginia has high administrative costs for ADC cases compared to other states, comparing Virginia's regional office structure with those of other states, examining the role of preventive services, and exploring the possibility of standardized forms for a variety of programs. Senator Gartlan noted that three themes emerged from the meeting: consolidation of local agencies, consideration of alternative service delivery methods, and suggestions for changes that will not fundamentally change the system. Members of the subcommittee will consider all of the suggestions and develop a work plan for the subcommittee, which will meet again on October 17th.



The Honorable Joseph V. Gartlan, Jr., *Chairman*
Legislative Services contact: Jessica F. Bolecek

HJR 451: Blue Ridge Economic Development Commission



September 24, 1991, Blacksburg

The Future of Economic Growth

The keynote speaker for the meeting was Dr. Charles E. Bishop, president emeritus of the University of Houston system. Dr. Bishop praised the commission for its thought and foresight in forming task forces and tackling tough economic development issues. He stressed that educational institutions will play a very important role in future economic development.

Five major changes in the United States have affected and will continue to affect economic development in the Commonwealth and specifically the Blue Ridge region, according to Dr. Bishop:

- Increased productivity and conversion of agriculture to a market-oriented industry have increased U.S. capacity to produce products, while greatly reducing the country's capacity to employ people. This conversion has wreaked havoc on many rural communities.
- Manufacturing, like agriculture, has grown and undergone structural changes to enhance productivity, resulting in job destruction and reduced capacity to employ people. One of the results of this restructuring has been increased competition for U.S. industry.
- Services industries are expanding, with increasing employment capacity. Thus, new employment is arising from service-producing industries, not manufacturing industries. In fact, recent surveys have shown that 62% of future economic growth will come in technical and managerial areas.
- Local and state economies are tied to national and international markets. Thus, the Blue Ridge region must focus on these broader markets and

Task Force Reports

Strategies to promote tourism and market local attractions (Senator J. Granger Macfarlane, *Chairman*). John Watt, director of community development, and John Strutner, manager of community services for the Division of Tourism, briefed the task force on the division's approach to marketing tourism in the Commonwealth, with particular emphasis on the Blue Ridge region. Mr. Strutner explained that the division is currently developing a tourism accreditation program for localities. After the briefing, the task force agreed to consider recommending that localities with a meals and lodging tax dedicate a certain percentage to the promotion of local tourism.

Marketing strategies to promote business and industry (Delegate Thomas M. Jackson, Jr., *Chairman*). The task force reviewed the final recommendations of the Southside Economic Development Commission and agreed to consider the creation of an "umbrella organization" to coordinate the marketing efforts of all the localities in the Blue Ridge region. The task force recommended that a representative of the Department of Economic Development appear at the next meeting of the full commission to explain the department's approach to marketing the Commonwealth to business and industry.

Initiatives to enhance the education and training of the workforce (Senator Daniel W. Bird, Jr., *Chairman*). Robert McCracken, superintendent of Giles County Public Schools, discussed the partnership his school system has with Hoechst Celanese Fibers Company and commission member Dr. Charles Downs, president of Virginia Western Community College, recommended to the group the creation of a comprehensive regional technology application and instruction center for the Blue Ridge region. Each member of the task force agreed to develop at least one recommendation for the full commission.

Partnerships between state and local governments, educational institutions and the private sector (Delegate C. Richard Cranwell, *Chairman*). Following a staff briefing, task force members examined successful partnerships and the impediments to creating such partnerships. The group also agreed to focus on the future of the Blue Ridge region's workforce.

Expansion and diversification of existing industry (Senator Frank W. Nolen, *Chairman*). David G. Dickson and James C. McKean of the Department of Economic Development briefed the task force on the industrial services and other programs offered by the department to existing businesses and used in the recruitment of new industry. The task force then focused its discussion on expansion of existing industry and expediting the environmental permitting process.

consider investments of foreign capital when discussing economic development issues.

■ Economic growth does not occur in an even distribution. For example, the 1970s produced growth in the rural areas of the country, while during the 1980s the metropolitan areas experienced significant economic growth. The commission should determine where growth is most likely to succeed and concentrate its efforts on those localities.

In the future, the requirements for economic growth will change, and the infrastructure must expand to accommodate this growth. Business and industry will consider the following factors concerning a locality when making location or expansion decisions:

- quality of life,
- availability of health services,
- quality of education, and
- quality of environment, such as clean air.

The future of the workforce is looking dim. More experienced and skilled people will be needed in the next decade, and they will not be available if the status quo is maintained. Localities, as well as states as a whole, need to determine how to increase labor productivity.

The workforce requirements for the year 2000 will be brains, not brawn, due to computerization and advancements in technology. One-half of new jobs will require a college education. The workforce of the future will need to know not only the "3 Rs" but also the "3 Cs":

Conceptualization--the ability to think,

Computerization, and

Collaboration--the ability to work in a team to produce a product or service.

How does the current labor force compare with these requirements? Poorly. Today, 50% of the labor force does not have a high school diploma. One in five Americans cannot read well enough to participate in entry-level training. Rural areas especially are experiencing high rates of illiteracy, high dropout rates, and the lack of a college-educated workforce. Currently, America is perpetuating a permanent mass of unemployable people. Due to these problems, 30% of American companies predict workforce deficiencies in the next five years.

Localities and states need to improve their education systems, expand Head Start programs

and cooperative programs between secondary schools and community colleges, and develop scientists and engineers if they desire to prepare the workforce for the future and create a favorable climate for business and industry.

Environmental Permitting

Environmental permitting in the Commonwealth was addressed by William L. Woodfin, Jr., director of the Department of Waste Management and David G. Dickson, director of Community, Business and Trade Services for the Department of Economic Development. Mr. Woodfin discussed "Project Streamline," an effort by the state's environmental regulatory agencies to speed up and simplify the permitting process.

The Interagency Permit Assistance Group was discussed by Mr. Dickson. The mission of this group is "to assist in making Virginia's environmental permitting process as easy, simple, and straightforward as possible for the business community, consistent with the enforcement of all appropriate protection laws and regulations." The group is comprised of representatives from the Department of Air Pollution Control, the Department of Waste Management, the State Water Control Board, and the Department of Economic Development. The group will report to the Secretaries of Natural Resources and Economic Development.

The Gypsy Moth

The topic of the gypsy moth and its effects on the Blue Ridge region was presented by Dr. F. William Ravlin, associate professor and extension entomologist at Virginia Tech. Dr. Ravlin warned that by the year 2005, the moth will be located throughout the Commonwealth and that the moth especially thrives along the

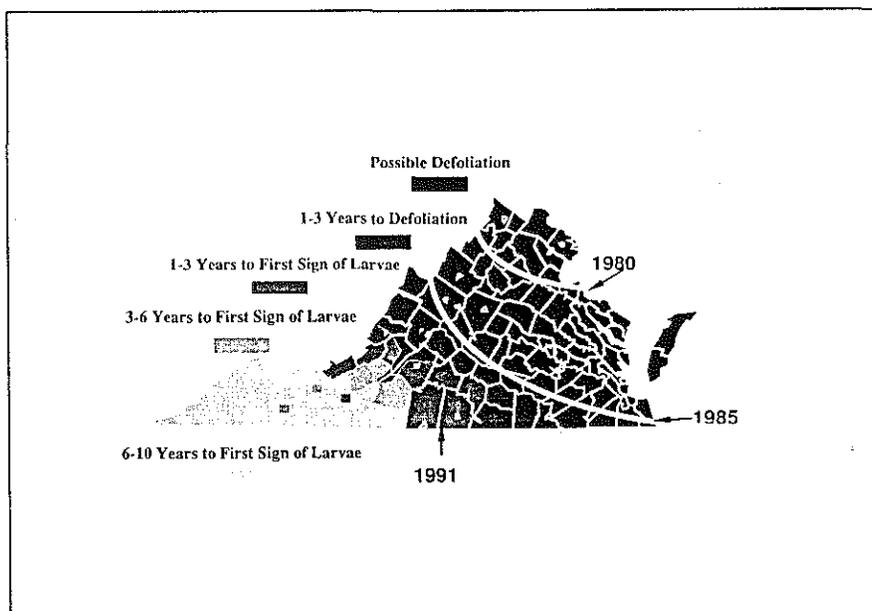


Figure 1. The Gypsy Moth in Virginia.

Source: Dr. F. William Ravlin, Department of Entomology, VPI & SU

Blue Ridge Parkway, due to its higher elevation (see Figure 1). The primary impact of the moth is defoliation.

According to Dr. Ravlin, several steps must be taken to enhance the Commonwealth's and localities' ability to deal with the gypsy moth problem:

- Establishment of county-based gypsy moth management packages;
- Realization that the problem will not disappear;
- Coordination of programs on a statewide basis;
- Implementation of informational technology tools;
- Implementation of technological transfer programs; and
- Coordination of research, extension, and implementation programs.

The commission's task forces also met on September 24 (see box, page 19). The next meeting of the commission will be held on October 29 in Roanoke.



The Honorable Joan H. Mumford, *Chairman*
Legislative Services contact: Edie T. Conley

HJR 386: Joint Subcommittee Studying School Drop Out and Self-Esteem

September 17, 1991, Richmond

The joint subcommittee focused its attention on the issues continued for further discussion with the Department of Education at the August 15 meeting.

Literacy Incentive Program

The Literacy Incentive Program was begun in 1987 to increase the literacy level among Virginia's inmates. Prior to the implementation of the program, inmates were tested to assess their reading skills. Of those tested, 940 inmates scored at or below the sixth grade reading level and were eligible for the program. In 1987, 443 inmates were enrolled in the program, and participation has grown steadily each year. As of June 30, 1991, 3,411 inmates were eligible, 1,762 were enrolled, 932 were on a waiting list, 285 refused to enroll, and 431 dropped out of the program.

Initially, the program's objective was to provide basic skills training to increase inmate reading skills to the sixth grade level. In 1989, however, the General Assembly enacted legislation to require that the Department of Corrections, the Parole Board, and the Superintendent of Correctional Education develop a functional literacy program for inmates who read below the eighth grade level. The Department of Correctional Education is responsible for instruction, the Department of Corrections provides facilities, and the Parole Board provides incentives for participation. The curriculum includes instruction in reading, writing, mathematics, and basic life skills. Incentives for program participation include the opportunity to earn institutional pay, good time allowance, and consideration of the inmate's participation during review by the Parole Board. Currently, the program is available at 19 major state correctional institutions and 12 field units; 7 field units do not have the program, and last year 6 field units were closed, of which only one had such a program. The lack of adequate funding prevents the full implementation of the program in all correctional institutions.

World Class Education

Superintendent of Public Instruction Dr. Joseph A. Spagnolo, Jr., reviewed the proposed World Class System of Education for the 21st Century, an initiative of the Board of Education. The proposed system is based on a 10-year plan to respond to the educational challenges presented by dropouts, poverty, and changing world standards. The new system will be research-based and evaluative and will constitute a fundamental change in public education. The system has four components—goals, common core of learning, accountability for student achievement, and demonstration projects to identify effective practices for delivering the common core of learning. It is anticipated that at the end of the formal school years, students will possess a high level of academic or technical skill, be prepared

to lead happy, productive lives in a rapidly evolving environment, and have the ability to function successfully in a global economy. In developing the new system, consideration was given to current research on how children learn and board discussions and directions regarding excellence and equity, accountability, and flexibility and adaptability of instructional programs.

The centerpiece of the new system is the common core of learning, which focuses on the acquisition and application of concepts, knowledge, skills, and attitudes by *all* students. To accomplish this, the common core of learning establishes certain proficiencies for students and provides for the creation of 15 to 20 two-year early childhood demonstration projects in less wealthy school divisions for at-risk students during the 1992-93 school year.

Future plans include a request for funding early childhood demonstration projects, revision of the Standards of Quality, expansion of demonstration projects to include preadolescent and adolescent programs, evaluation of programs and student outcomes, and dissemination of information on successful projects and best teaching practices. The estimated budget for the implementation of these plans is \$30 million.

Drop Out Prevention

Assistant Superintendent Dr. Edward W. Carr of the Department of Education resumed the presentation that the department began at the joint subcommittee's meeting in August. He noted that the plan to address the needs of at-risk children over the past two years included the evaluation of the statewide school drop out prevention grants (Project YES), which will be presented, together with the comprehensive school drop out prevention plan, to the subcommittee in January 1992; the implementation of the initial phases of the World Class System of Education; and the development and implementation of a comprehensive school drop out prevention plan.

Dr. Lucille Brown, the newly appointed superintendent of Richmond City Public Schools and a member of the subcommittee's task force on education programs and funding, was asked to comment on the effectiveness of the Project YES grants. She stated that the school drop out rate for the City of Richmond was 12.4% when it received its first Project YES grant in 1989. Attention during the first year of funding was directed primarily to addressing the educational and related needs of ninth grade students at risk of dropping out. In 1990, the second year of funding, drop out prevention efforts began at the sixth grade while concentrating on ninth grade students. The staff has been successful in helping sixth graders make a commitment to stay in school. At the end of the 1990-91 school year, the drop out rate decreased to 8.4%. With the Project YES funds Richmond received this year, and with the continued efforts of its instructional staff, Richmond's drop out rate is expected to decrease to 6.7% for the 1991-92 school year. Success in reducing the drop out rate by nearly 50% in two years is attributed to additional funds through Project YES, which permitted the school division to devote the time, attention, and intervention strategies necessary to work with at-risk students effectively. The greatest impact of Project YES funds in the Richmond City school division is the increased number of students who were retained in school.

A lengthy discussion ensued concerning the administration of drop out prevention activities required under recently enacted statutes relative to the Department of Education's new organizational structure and the impact of the Literacy Passport requirements on at-risk students and school drop out.

The joint subcommittee viewed the CBS 60 Minutes videotape of "Pat Taylor," creator of the Taylor Plan, initially a privately funded incentive program in Louisiana for certain at-risk public school students to encourage them to complete high school and pursue postsecondary education. The plan subsequently has been enacted into law by the Louisiana State Legislature and is now applicable to all students who meet the eligibility criteria and certain other conditions.

The subcommittee agreed, after discussing the merits of the plan, to consider the Taylor Plan, or an appropriate adaptation, as one of its recommendations this year.

Self-Esteem

Dr. V. Wendell Hylton, representing the Central Virginia Council on Self-Esteem, provided an update on the status of the council's plans for the Second Annual Virginia Conference on Self-Esteem, to be held at the Richmond Marriott on November 8-9, 1991. The registration fee this year has been reduced and will include the costs of meals and refreshments. The conference will highlight programs in the Richmond/Petersburg area. The joint subcommittee was requested to cosponsor the conference by contributing funds or hosting and underwriting a reception for 300 to 400 people. Because the appropriation of funds is the sole prerogative of the General Assembly, an ad hoc subcommittee was appointed to explore appropriate ways in which the joint subcommittee could support the conference.

The joint subcommittee deferred to its next meeting a discussion of state expenditures on social programs and a review of reports requested of staff and certain state agencies.



The Honorable Franklin P. Hall, *Chairman*

Legislative Services contact: Brenda H. Edwards

State Water Commission



August 22, 1991, Roanoke

At its second meeting of 1991, the State Water Commission received testimony from citizens and organizations in a continuation of its effort to formulate a comprehensive water policy. Speakers addressed various issues of water policy, including water quality, conservation, supply, funding, regional efforts, and interbasin transfers.

George Drumwright, deputy county manager of Henrico and member of the State Board of Health, expressed the opinion that Virginia must retain primacy for its safe drinking water program. Primacy, and the flexibility it provides the state in administering its program, will be lost without adequate funding. The Health Department has developed a proposal for an annual waterworks operation fee. As drafted, the maximum fee would be \$160,000, with an estimated \$4 million raised annually, which would provide adequate funding when added to current general fund dollars and federal trust monies. In addition to support by the commission of primacy and the fee legislation, Mr. Drumwright urged the members to adopt a resolution supporting increased funding for the Virginia Revolving Loan Fund and to receive testimony from the state laboratory and the Office of the Attorney General regarding funding needs for those offices.

State Health Commissioner Dr. C. M. G. Buttery also stressed primacy's importance to a well-administered drinking water program. He said that in Virginia technical assistance is offered at the beginning of operations, thereby saving operators time and costly modifications to a system already in operation. He contrasted the state's approach with that of the federal government, which is response through the court system after

a problem has been identified. Dr. Buttery urged the commission to support the proposal establishing an operator's fee.

John P. Kidd, director of the Richmond Regional Planning District Commission, addressed the water supply component of a comprehensive water policy. He characterized the current framework for water resource allocation and management as "fragmented" and advised that to adequately address public water supply needs and resolve the attendant policy questions, increased leadership at the state level is needed. He suggested that the state encourage regional entities to cooperate in developing water plans; such encouragement could take the form of mandatory planning requirements.

Water Supply

Charles S. O'Toole, county administrator for Mecklenburg County, urged the members to study all aspects of water supply and allocation issues and to consider interbasin transfer of water only as a last resort. He suggested as alternatives growth management, regional cooperation, desalinization of seawater or brackish water, and pumping water into the aquifer during the wet season for use during the dry season.

Dr. William Walker provided a history of droughts in Virginia and characterized the question of resource planning not as the possibility of another drought, but as determining the drought's severity and duration. He reminded the commission that localities are limited in the options they have to reduce demand on the resource. He suggested instead that the legislature establish priorities for water use in order to provide users with the "rules of the game." He stressed that localities need guidance from the state for planning and that the state needs to invest more time and resources in determining quantity of groundwater available for use. He raised the policy question of whether withdrawals of groundwater should be permitted if they exceed aquifer recharge, and if so, under what conditions. Political, institutional, and social interdependencies must be considered in the formulation of any comprehensive water policy.

James Givens of the American Waterworks Association stated that government should take a "proactive" role in the planning and development of Virginia's water resources. That includes the identification and evaluation of the availability of source water supplies for use for treatment and distribution of potable water by the local water surveyor to the community. The lack of adequate water resource planning affects the health, safety, and welfare of all Virginians.

Water Quality

Ileada Ribble, Virginia Taxpayer's Association, emphasized reduction of waste of water supplies and prevention of groundwater contamination. She characterized the use of alternative septic systems as "one of the best ways" to achieve those goals. Alternative septic systems can reduce water waste. Forty percent of water used in households is for flushing the toilet, which is approximately 13,000 gallons of water per person per year. A low-water flush system requires 1.6 gallons rather than the 5 to 8 gallons used in a standard flush tank. Ms. Ribble also stated that alternative septic systems can reduce water pollution. The EPA ranks septic systems as the number one source of groundwater pollution: 43% of groundwater basins are polluted by septic systems and 20% of all wells tested in 1989 were

polluted with excessive nitrates from septic systems.

Interbasin Transfer

Dr. Alan Hoffman, Roanoke River Basin Association, addressed interbasin transfer. It was his opinion that many opportunities for growth in the basin of origin will be lost and that interbasin transfer is bad state policy. Transfer of water will ultimately cause a loss of population and talent in rural areas as citizens seek opportunities elsewhere. This "rural blight" ultimately compounds problems in urban areas. He said that in searching for viable alternatives, the cost of desalinization compares favorably with that of a pipeline. Rural areas need to retain their water resources to provide opportunities to citizens in those areas.

Louis L. Guy testified that conflicts between water users continue to grow in severity and frequency and that the alternative to a comprehensive management plan for the resource is "a continuation of accommodations which serve only the parties involved and may disregard equity, efficiency, economy and environmental protection." He urged the commission to consider four elements as first steps to address "the most serious existing weaknesses" in statute:

- (i) Improvements to existing groundwater law to repeal any exemptions, to expand coverage statewide, and to provide for state approval for interjurisdictional transport;
- (ii) Creation of interbasin transfer authority for surface water under state approval;
- (iii) Creation of a compensation mechanism for the source area jurisdictions, tied both to interbasin transfer of surface water and to interjurisdictional transfer of groundwater; and
- (iv) Coincident with the new state approval process, elimination of the existing veto powers held by source jurisdictions over proposed water projects.

Intergovernmental Cooperation

Joseph V. Gorman, Jr., New River Valley Planning District Commission, stated that his organization supports and encourages the use of state technical assistance programs which aid localities in the development of plans. A planning process involving localities, planning

districts, and the State Water Control Board has not taken place and, as a result, interjurisdictional transfers "take place based on political clout without regard for the host jurisdiction's future needs." He urged the commission to develop a strategy to provide for adequate water resource planning.

The Fairfax County Water Authority was represented by Robert Ettrich, who expressed the authority's support of the Commonwealth's active participation in the planning and development of water resources. An active role will avoid local or regional conflicts and will assist localities in dealings with federal agencies. The state could act as a facilitator on an issue such as interbasin transfer, where such a transfer benefits a region but where the local jurisdic-

tions fail to agree on the terms and conditions for the transfer. The authority, however, opposes the imposition of a surcharge to fund infrastructure improvements for water utilities; each utility should adopt an appropriate rate structure to support its infrastructure needs.

The final speaker before the commission was Jim Ryan, representing the City of Virginia Beach. Mr. Ryan provided the members with a brief history of the Lake Gaston project, paying particular attention to the federal permits required for the project. Mr. Ryan called for coordination of the Virginia Water Protection Permit Act's procedures with those of the U.S. Army Corps of Engineers. He also said that it is "indispensable that the state take an active leadership role in guaranteeing that water actually becomes available where and when it is needed."



The Honorable Lewis W. Parker, Jr., *Chairman*

Legislative Services contact: Deanna C. Sampson

The Legislative Record summarizes the activities of all Virginia legislative study commissions and joint subcommittees. Published monthly in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.

E.M. Miller, Jr.	<i>Director</i>
R. J. Austin	<i>Manager, Special Projects</i>
K. C. Patterson	<i>Editor</i>
James A. Hall	<i>Designer</i>

Special Projects, Division of Legislative Services
910 Capitol Street, 2nd Floor, Richmond, Virginia 23219 804/786-3591

The Legislative Record is also published monthly in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219. Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations*.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are being published as a separate section of the Register beginning with the October 7, 1991, issue. The new section appears at the beginning of each issue.

DEPARTMENT FOR THE AGING

Notice of Public Comment Period for 1991-95 Intrastate Title III Funding Formula

Notice is hereby given that the Department for the Aging will accept comments on the formula for the distribution within Virginia of funds received under Title III of the Older Americans Act of 1965, as amended. Interested persons may submit data, views, and arguments orally or in writing to the department.

The Older Americans Act of 1965, as amended, requires that the Department for the Aging develop and publish for review and comment an intrastate formula for the distribution of Title III funds to the Area Agencies on Aging. Public comment on the formula was solicited and received during June and July, 1989. The department does not intend to change the formula which has been in effect since October 1, 1989. 1990 Census data have been used to update the population-based factors in the formula.

The updated Title III intrastate funding formula is computed on the basis of (1) the number of persons 60 years of age and over, from the 1990 Census, (2) the number of persons 60 years of age and over at or below the poverty level, from the 1980 US Census, (3) the number of minority persons 60 years of age and over at or below the poverty level, from the 1980 Census, and (4) the number of persons 60 years of age and over who reside in rural areas of the state.

The formula factors and their weights are as follows:

- Population 60+.....30%
- Rural residents 60+..10%
- Poverty 60+.....50%
- Minority Poverty 60+.10%

Population 60+. This factor distributes Title III funds on the basis of the geographical location of older Virginians. It reflects the distribution of persons age 60 and over throughout the state.

Rural Residents 60+. The rural 60+ factor is utilized to denote the geographical isolation faced by older Virginians who live in the rural areas of the state. "Rural area" means a city or county which is not within a Metropolitan Statistical Area (MSA) according to the Bureau of the Census or a city or county which is within a MSA but which has a population density of less than 50 persons per square mile.

Poverty 60+. This factor distributes Title III funds to those areas of the state with the greatest number of older persons in economic need. The financial condition of the older person is a major determinant of his ability to meet basic life needs, such as food, shelter, clothing, health care, and mobility. This factor is an application of the definition of greatest economic need.

Minority Poverty 60+. The low income minority elderly factor addresses the racial barrier as well as the economic needs of this group of older persons.

Hold Harmless Provision. In Fiscal Year (FY) 1992, each Area Agency on Aging will be held harmless at its FY 1989 funding level. This means that an Area Agency's total funding will not be reduced below its FY 1989 funding level. An agency will no longer be held harmless when its formula share and sufficient funds allow it to exceed the FY 1989 funding level. The hold-harmless provision will allow implementation of the formula without significant shifts in funding and major disruption of services. Implementation of this allocation plan is contingent upon no decrease in federal and state funding below the FY 1989 level.

No Area Agency on Aging will receive less than \$100,000 in total funds distributed under this allocation plan.

What follows is a numerical statement of the funding formula to be used and a demonstration of the allocation of funds based on the formula:

CSA	FORMULA 3	TITLE	TITLE	TITLE	TITLE	TITLE
		III-B	III-G(1)	III-G(2)	III-D	III-G
1	3.07823	202,744	135,592	87,173	4,620	1,782
2	3.11866	203,307	137,373	88,318	4,680	1,805
3	5.38562	362,401	237,230	152,517	8,083	3,118
4	2.95448	192,604	130,141	83,669	4,434	1,710
5	4.97958	324,622	219,345	141,018	7,473	2,883
6	5.06386	330,116	223,057	143,405	7,600	2,932
7	3.74690	244,262	163,047	106,109	5,623	2,169
8A	1.08721	122,053	47,890	30,783	1,632	629
8B	1.50457	189,927	66,275	42,608	2,258	871
8C	3.85722	357,125	169,906	109,234	5,789	2,233
8D	0.54403	35,466	23,964	15,407	817	315
8E	0.78908	51,441	34,758	22,346	1,184	457
9	2.77997	181,228	122,454	78,727	4,172	1,609
10	3.04963	198,807	134,333	86,363	4,577	1,765
11	4.17437	272,130	183,876	118,215	6,265	2,417
12	6.26872	408,661	276,130	177,525	3,408	3,629
13	3.56433	282,998	157,005	100,939	5,349	2,063
14	3.44828	224,795	151,893	97,653	5,175	1,996
15	10.22151	666,346	450,245	289,466	15,340	5,917
16	2.14530	133,853	94,498	60,753	3,220	1,242
17/18	4.01520	261,753	176,865	113,707	6,026	2,324
19	3.87857	252,846	170,846	109,838	5,821	2,245
20	13.57517	884,973	597,970	384,439	20,373	7,859
21	4.48129	292,138	197,336	126,907	6,725	2,594
22	2.28821	143,170	100,793	64,800	3,434	1,325

The department will hold at least one public hearing on the formula. Refer to the Calendar of Events Section for the dates, times, and locations of the public hearings. Persons who testify at the hearing(s) are urged to provide a written copy of their comments to the hearing officer. An interpreter for the deaf and hard-of-hearing will be provided upon request.

Written comments on the formula may be submitted until 5 p.m. on December 6, 1991. Comments should be sent to Mr. J. James Cotter, Director, Divisions of Program Development and Management, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327. To obtain further information, write to the department at the above address or call 1-800-225-2271 or toll-free in Virginia 1-800-552-4464.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Public Notice

The State Board of Health has received a request from a group composed of well drillers and other individuals from Tidewater to amend the Private Well Regulations pertaining to Class IV (non-drinking water) wells. They propose two major changes:

1. Reduce the minimum separation distance between Class IV wells and building foundations treated by a chemical termiticide to 10 feet. The proposed minimum separation distance in the regulations is 25 feet if certain well construction and site conditions exist.

2. Allow the issuance of a well construction permit for Class IV wells immediately upon filing an application with a site plan and payment of the application fee. This permit would be issued without the local health department conducting a site visit to determine the proposed well site suitability. The well site would be subject to a post-construction inspection and approval by the local health department.

Comments on these proposals should be submitted to Gary L. Hagy, Assistant Director, Bureau of Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218. Comments should be received by January 3, 1992.

DEPARTMENT OF LABOR AND INDUSTRY

† Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the Federal level. Therefore, the Virginia Department of Labor and Industry is issuing the following notice:

U.S. Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910

Docket No. H-122

RIN 1218-AB37

Occupational Exposure to Indoor Air Pollutants; Request for Information

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Request for Information.

SUMMARY: In the September 20, 1991 issue of the Federal Register, the Occupational Safety and Health Administration (OSHA) published a notice of request for information on issues pertinent to indoor air quality in

General Notices/Errata

occupational environments (56 FR 47892). This notice raises major issues which OSHA needs to consider in determining whether regulatory action is appropriate and feasible to control health problems related to poor indoor air quality. The issues on which comment is requested are organized into five broad categories: (1) Definition of and Health Effects Pertaining to Indoor Air Quality; (2) Monitoring and Exposure Assessment; (3) Controls; (4) Local Policies and Practices; and (5) Potential Content of Regulations.

In addition to seeking information regarding Indoor Air Quality concerns in general, issues addressed in this notice also focus on specific indoor air contaminants, such as passive tobacco smoke (PTS), radon and bioaerosols. With respect to these particular contaminants, information is requested on their relative contribution to the overall degradation of indoor air quality as well as associated health effects and methods of exposure assessment and mitigation. The information received in response to this notice will assist OSHA to determine whether it is necessary and appropriate to pursue regulatory action concerning occupational exposures to indoor air contaminants.

DATES: Written comments concerning this notice of request for information on issues pertinent to occupational exposure to indoor air pollutants must be postmarked on or before January 21, 1992.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Officer, Docket No. H-122, room N-2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-7894.

An additional copy of your comments should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N-3649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 423-8151.

MARINE RESOURCES COMMISSION

† Notice of Public Hearing

The Marine Resources Commission invites public comment on a proposed regulation prohibiting the use of firearms, spears, spear guns, bow and arrows, or crossbows for the taking, killing, or catching of any fish. The possession or sale of fish taken by any of these devices would also be unlawful. This proposal would not prohibit the use of a firearm to kill a shark which has been brought to boat side by legal means.

A public hearing on this proposal will be held on Tuesday, September 24, 1991 at noon at the Marine Resources Commission, 2600 Washington Avenue, Newport News, VA 23607. For further information or to present written testimony, please contact the Fisheries Management Division at the above address.

† Notice of Public Hearing

The Marine Resources Commission has received a request to extend the season established for the dredging of conch in areas around the mouth of the Chesapeake Bay from September 30, 1991 to October 31, 1991. The proposed season extension would only apply to the lower Chesapeake Bay (Area No. 4) and the Atlantic Ocean adjacent to the Bay mouth (Area No. 2) as described in VR 450-01-0020.

A public hearing to consider this request will be held on Tuesday, September 24, 1991 at noon at the Marine Resources Commission, 2600 Washington Avenue, Newport News, VA 23607. For further information or to present written testimony, please contact the Fisheries Management Division at the above address.

† Notice of Public Hearing

The Marine Resources Commission invites public comment on a proposed regulation to prohibit the possession by any person aboard a vessel or public fishing pier of any fish regulated by minimum or maximum size or bag limits that has been mutilated or altered such that its total length or species cannot be accurately determined. This proposal would allow filleting of fish on board a boat or pier, but would require the fishermen to keep the carcasses of the regulated species so that the species and its total length could be determined at the point of landing. At the present time, the proposed restriction would apply to amberjack, black drum, bluefish, cobia, grey trout, red drum, speckled trout, king mackerel, and spanish mackerel.

* * * * *

The Virginia Marine Resources Commission does not discriminate against individuals with disabilities. Therefore, if you are in need of reasonable accommodation due to a disability, please advise Deborah R. Cawthon, (804) 247-2248 no less than 72 hours prior to the meeting time and identify your need.

DEPARTMENT OF WASTE MANAGEMENT

Public Notice

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the

Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the County of Botetourt and the Towns of Buchanan, Fincastle and Troutville. The County of Botetourt will be the designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Tuesday, November 12, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or (804) 371-8737/TDD ☎

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

Public Notice

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the County of Mecklenburg and the Towns of Boydton, Chase City, Clarksville, LaCrosse and South Hill. The County of Mecklenburg will be the designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Tuesday, November 12, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or (804) 371-8737/TDD ☎

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Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

Public Notice

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the County of Tazewell and the Towns of Bluefield, Cedar Bluff, Richlands, Tazewell and Pocahontas. The County of Tazewell will be the designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Tuesday, November 12, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or (804) 371-8737/TDD ☎

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

† Notice to the Public

In an effort to ensure an adequate opportunity for public participation during the promulgation process of the proposed Yard Waste Composting Facility Regulation (VR 672-20-32), the Virginia Waste Management Board and the Virginia Department of Waste Management have established an additional comment period. The purpose of the additional comment period is to allow for review of the changes to the proposed regulation in response to public comment.

General Notices/Errata

November 15, 1991 - Written comments may be submitted until this date.

Notice is hereby given that the Virginia Waste Management Board intends to adopt a regulation entitled: **VR 672-20-32. Yard Waste Composting Facility Regulation.** The proposed regulation will establish appropriate standards for siting, design, construction, operation and closure, and expedited approval procedures pertaining to certain yard waste composting facilities.

The purpose of this regulation is to replace VR 672-20-31. "Yard Waste Composting Regulation" which was an emergency regulation.

The proposed regulation creates a permit by rule status for yard waste composting facility owners and operators that demonstrate to the department that their facilities are in compliance with the facility standards set forth in the regulation and, where applicable, they have satisfied the proof of financial responsibility requirements of VR 672-20-01. "Financial Assurance Regulations for Solid Waste Facilities." The permit by rule procedure is intended to encourage the development of yard waste composting facilities by reducing the review time needed to gain regulatory approval to commence operation and the cost of compliance.

The Virginia Waste Management Board and the Virginia Department of Waste Management are requesting additional comments, suggestions, and information for all interested parties to ensure that the changes to the proposed regulation made in response to public comment are clearly written and easily understandable, and that the changes address the issues raised by the public comments received.

Copies of the proposed regulation indicating the changes in response to public comment in strike-through typeface and/or underline may be requested from the department's contact person listed below.

Written comments may be submitted until November 15, 1991.

Contact: Michael P. Murphy, Environmental Program Manager, Department of Waste Management, 11th Floor, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☎

VIRGINIA CODE COMMISSION

NOTICE 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.

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) - DPBR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

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

† November 15, 1991 - 2 p.m. - Public Hearing
New River Community College, Rooker Hall, Dublin, Virginia. ☒ (Interpreter for deaf provided upon request)

† November 26, 1991 - 1 p.m. - Public Hearing
County Government Center, 1300 Courthouse Road, Stafford, Virginia. ☒ (Interpreter for deaf provided upon request)

A public hearing on the formula for the distribution within Virginia of funds received under Title III of the Older Americans Act of 1965, as amended. Interested persons may submit data, views, and arguments. Persons who testify at the hearing are urged to provide a written copy of their comments to the hearing officer. Refer to the General Notices section for more information.

Contact: Bill Fascitelli, Regulatory Coordinator, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-4464, 1-800-552-4464/TDD ☎ or (804) 225-2271/TDD ☎

Long-Term Care Ombudsman Program Advisory Council

† December 3, 1991 - 9 a.m. - Open Meeting
Beth Sholom Home of Central Virginia, 1200 Gayton Road, Richmond, Virginia. ☒

Business will include discussion of goals and objectives for 1992 and identifying priorities for the Long-Term Care Ombudsman Program.

Contact: Ms. Virginia Dize, State Ombudsman, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-2271, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

DEPARTMENT OF AIR POLLUTION CONTROL

† November 7, 1991 - 7 p.m. - Public Hearing
Enon Elementary School, 2001 East Hundred Road, Chester, Virginia. ☒ (Interpreter for deaf provided upon request)

A public hearing to discuss a proposed permit to construct and operate a 202 KW cogeneration plant in Chesterfield County, Virginia, by Bermuda Hundred Limited Partnership.

Contact: Mark Williams, Environmental Engineer Sr., Virginia Department of Air Pollution Control, Region V, Suite 250, 9210 Arboretum, Richmond, VA 23236, telephone (804) 323-2409.

STATE AIR POLLUTION CONTROL BOARD

November 22, 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 State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS), which are found in Rules 5-5 and 6-1, respectively. The proposed amendments will update as well the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The proposed amendments will incorporate the 1990-1991 edition of the American Conference of Governmental Industrial Hygienists' Handbook which forms the basis for the toxic pollutant rules, and three NSPS and four NESHAPS which were promulgated by EPA between July 1, 1989, and June 30, 1990.

Calendar of Events

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

Written comments may be submitted until November 22, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

November 21, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from September 19, 1991 meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) adopt proposed regulations as final.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

November 21, 1991 - 10 a.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to amend regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The proposed regulations will regulate the practice of architecture, engineering, land surveying, landscape architecture and interior design as well as the professional corporations and business entities that offer those services.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until 10 a.m., November 21, 1991.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Architects

November 7, 1991 - 9:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from August 22, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

November 15, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from September 13, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Professional Engineers

November 5, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from August 13, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

ASAP POLICY BOARD - ROCKBRIDGE

Board of Directors

November 12, 1991 - 3 p.m. – Open Meeting
2044 Sycamore Avenue, Buena Vista, Virginia. ☒

A general meeting. Agenda to include call to order, approval of minutes from July 30, 1991, old business, new business, and treasurer's report.

Contact: S. Diane Clark, Director, 2044 Sycamore Avenue, Buena Vista, VA 24416, telephone (703) 261-6281.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **November 15, 1991 - 10 a.m. – Open Meeting**
Virginia Housing Development Authority, 601 Belvidere Street, Second Conference Room, First Floor, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii)

consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 371-7772.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **November 14, 1991 - 10 a.m. – Open Meeting**
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by November 7, 1991.

† **December 5, 1991 - 10 a.m. – Open Meeting**
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. The board will elect officers. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by November 27, 1991.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Central Area Review Committee

November 25, 1991 - 1 p.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

November 13, 1991 - 10 a.m. – Open Meeting
November 27, 1991 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

November 6, 1991 - 10 a.m. – Open Meeting
November 20, 1991 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

† **November 14, 1991 - 9 a.m. – Open Meeting**
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns, and programs that impact child care centers, camps, school age programs, and preschool/nursery schools. Public comment period will be at 1 p.m.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone

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(804) 662-9217.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

† **November 15, 1991 - 8:30 a.m.** – Open Meeting

† **December 20, 1991 - 8:30 a.m.** – Open Meeting

Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☒

A regularly scheduled meeting 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 Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

DEPARTMENT OF COMMERCE

December 9, 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 Department of Commerce intends to repeal existing regulation VR 190-04-1 and adopt new regulations entitled: **VR 190-04-1:1. Private Security Services Businesses Regulations.** The proposed regulations have been reorganized to provide clarity in the licensing procedures, entry requirements, renewal, fees, and the requirements that all applicants for licensure are in good standing and have not been convicted of a misdemeanor for felony in any jurisdiction.

Statutory Authority: §§ 54.1-1903 and 54.1-1904 of the Code of Virginia.

Written comments may be submitted until December 9, 1991.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

STATE BOARD FOR COMMUNITY COLLEGES

† **November 20, 1991 - Time to be determined** – Open Meeting

Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

State board committee meetings.

† **November 21, 1991 - 9 a.m.** – Open Meeting
Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

A regular state board meeting. Agenda available by November 6, 1991.

Contact: Mrs. Joy Graham, Monroe Building, 101 North 14th Street, Richmond, VA, telephone (804) 225-2126.

COMPENSATION BOARD

† **November 21, 1991 - 5 p.m.** – Open Meeting

† **December 19, 1991 - 5 p.m.** – Open Meeting
Room 913/913A, 9th Floor, Ninth Street Office Building, 202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A routine meeting to conduct business of the board.

Contact: Bruce W. Haynes, Executive Secretary, P. O. Box 3-F, Richmond, VA 23206-3886, telephone (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

November 15, 1991 - Noon – Open Meeting
Planning Commission Conference Room, Fifth Floor City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD OF CORRECTIONS

November 13, 1991 - 10 a.m. – Open Meeting

December 11, 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 to the board.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

November 14, 1991 - 9:30 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room,

Richmond, Virginia. ☒

The committee will continue to address criminal justice issues.

Contact: Louis E. Barber, Sheriff, Montgomery County, P.O. Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

† **January 15, 1992 - 10 a.m.** – Public Hearing
6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to amend regulations entitled: **VR 230-30-006. Work/Study Release Standards for Local Facilities**. The proposed regulations establish the minimum operational standards for work or study release programs in local correctional facilities.

STATEMENT

Basis: Sections 53.1-5 and 53.1-131 of the Code of Virginia require the Board of Corrections to prescribe program standards and to monitor the activities of the department in implementing the standards.

Purpose: These standards have been developed to measure the effectiveness of Work/Study Release Programs in the local correctional facility.

Substance: This revision to VR 230-30-006, Work/Study Release Program Standards, includes provisions for local and regional jails to permit state offenders to participate in the local programs.

Issues: These standards were promulgated by the Board of Corrections to carry out the provisions of §§ 53.1-5 and 53.1-131 of the Code of Virginia. Local and regional jails must meet the standards in order to operate this program. These standards are considered an appendix to other standards that regulate the operation of local or regional jails.

Impact: These standards will only have an impact on those local or regional jails that elect to participate in the work/study release program within their local area. The major impact will be in the areas of selection and control of inmates to participate in the program.

Statutory Authority: §§ 53.1-5 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Mike Howerton, Chief of Operations, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3041.

BOARD FOR COSMETOLOGY

† **November 4, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 W. Broad Street,
Richmond, Virginia.

A general business meeting.

† **November 18, 1991 - 10 a.m.** – Open Meeting
Department of Commerce, 3600 W. Broad Street,
Richmond, Virginia.

A meeting to conduct regulatory review.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

BOARD OF DENTISTRY

November 7, 1991 - 8:30 a.m. – Open Meeting
November 8, 1991 - 8:30 a.m. – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon,
Virginia. ☒

A meeting to consider committee reports and regular board business. Formal hearing. This a public meeting and the public is invited to observe. No public testimony will be received by the board at this meeting.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9906.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

† **January 6, 1992 - 9 a.m.** – Public Hearing
Monroe Building, 101 North 14th Street, Rooms C and D,
Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **VR 270-01-0054. Regulations Governing Reporting of Acts of Violence and Substance Abuse in Schools**. The proposed regulations will establish a format and timelines for local school divisions to report to the Department of Education certain acts of violence and substance abuse.

STATEMENT

Subject: The proposed regulation concerns violence and substance abuse in Virginia's public schools.

Substance: The proposed regulation will establish format and timelines for local school divisions to report to the Department of Education certain information pertaining to

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the incidence of violence and substance abuse in schools, on school buses, and at school sponsored activities.

Issues: The proposed regulation was developed by an interagency team led by the Department of Education. The team feels that the proposal provides essential information to the department and minimal burden on local school divisions. The major impact on school divisions will be personnel time required to collect, aggregate, and report the information.

Basis: Section 22.1-280.1 of the Code of Virginia authorizes the Department of Education to collect certain information on acts of violence perpetrated by students on school personnel. House Bill 776, passed by the 1990 General Assembly, authorizes the department to expand the information to include other acts of violence and acts involving substance abuse.

Purpose: The purpose of the regulation is to provide information on the incidence of violence and substance abuse in Virginia's schools. The data will be used by the Department of Education in developing strategies to assist local school divisions to deal effectively with the problems.

Statutory Authority: § 22.1-280.1 of the Code of Virginia.

Written comments may be submitted until January 6, 1992.

Contact: H. Douglas Cox, Principal Specialist, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2871.

STATE EDUCATION ASSISTANCE AUTHORITY

† November 21, 1991 - 10 a.m. - Open Meeting
Second Floor Board Room, 411 East Franklin Street,
Richmond, Virginia. ☐

A general business meeting.

Contact: Lyn Hammond, Executive Assistant, 411 East Franklin Street, Suite 300, Richmond, VA 23219, telephone (804) 775-4620, SCATS (804) 786-2035 or toll-free 1-800-792-LOAN.

VIRGINIA EDUCATION LOAN AUTHORITY

† November 18, 1991 - 10 a.m. - Open Meeting
Third Floor Board Room, 737 North Fifth Street,
Richmond, Virginia. ☐

A general business meeting.

Contact: Lyn Hammond, Executive Assistant, 411 East Franklin Street, Suite 300, Richmond, VA 23219, telephone (804) 775-4620, SCATS (804) 786-2035 or toll-free 1-800-792-LOAN.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

November 7, 1991 - 5:30 p.m. - Open Meeting
December 5, 1991 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001
Ironbridge Road, Chesterfield, Virginia. ☐

A meeting to meet requirements of Superfund
Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services,
Chesterfield Fire Department, P.O. Box 40, Chesterfield,
VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - GOOCHLAND COUNTY

† November 13, 1991 - 7:30 p.m. - Open Meeting
General District Courtroom, Goochland Courthouse
Complex, Goochland, Virginia. ☐

A regular scheduled semi-annual meeting.

Contact: Gregory K. Wolfrey, County Administrator, P.O.
Box 10, Goochland, VA 23063, telephone (804) 556-5300.

LOCAL EMERGENCY PLANNING COMMITTEE - PORTSMOUTH

November 13, 1991 - 9 a.m. - Open Meeting
St. Julien's Annex, Building 307, Victory Boulevard at
Magazine Road, Portsmouth, Virginia.

A regular meeting.

Contact: Donald Newberry, Jr., Chairperson, City of
Portsmouth Fire Department, 361 Effingham Street,
Portsmouth, VA 23704-2337, telephone (804) 393-8765.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

November 18, 1991 - 1:30 p.m. - Open Meeting
December 16, 1991 - 1:30 p.m. - Open Meeting
1 County Complex Court, Potomac Conference Room,
Prince William, Virginia. ☐

A multi-jurisdictional Local Emergency Planning
Committee to discuss issues related to hazardous
substances in the jurisdictions. SARA Title III
provisions and responsibilities for hazardous material
emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 1
County Complex Court, Prince William, VA 22192-9201
telephone (703) 792-6800.

VIRGINIA FIRE SERVICES BOARD

Department of Fire Programs

† **November 21, 1991 - 7 p.m.** – Public Hearing
Holiday Inn, Wytheville, Virginia.

A public hearing to discuss the role of the state fire marshal within the fire services community.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **November 18, 1991 - 9 a.m.** – Open Meeting
1601 Rolling Hills Drive, Conference Rooms 1, 3 and 4, Richmond, Virginia. ☒

Board Licensure Examinations will begin promptly at 9 a.m.

The full board will meet at 10 a.m. Committee meetings will begin after the full board meeting.

Public comments will be received during the first 30 minutes of the full board meeting from 10 a.m. until 10:30 a.m.

† **November 19, 1991 - 9 a.m.** – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

The board will hold informal conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9907.

DEPARTMENT OF GENERAL SERVICES

December 6, 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 Department of General Services intends to amend regulations entitled: **VR 330-02-05. Requirements for Approval to Perform Prenatal Serological Tests for Syphilis.** The regulation defines the procedure to be followed for evaluating a laboratory's ability to perform syphilis serological testing.

Statutory Authority: § 32.1-60 of the Code of Virginia.

Written comments may be submitted until December 6, 1991.

Contact: James Blaine, Ph.D., Assistant Bureau Director, Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-5453.

BOARD FOR GEOLOGY

November 22, 1991 - 10 a.m. – Open Meeting
3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **December 2, 1991 - 7 p.m.** – Public Hearing
Washington County Public Library, Oak Hill and Valley Streets, Abingdon, Virginia.

† **December 3, 1991 - 7 p.m.** – Public Hearing
Montgomery County Courthouse, 3rd Floor, Courtroom B, 1 East Main Street, Christiansburg, Virginia.

† **December 4, 1991 - 7 p.m.** – Public Hearing
Appomattox County Courthouse, Court Street, Appomattox, Virginia.

† **December 9, 1991 - 7 p.m.** – Public Hearing
Henrico County, Board Room, Administration Building, Parham and Hungary Springs Roads, Richmond, Virginia.

† **December 10, 1991 - 7 p.m.** – Public Hearing
Harrisonburg Electric Commission, 2nd Floor Conference Room, 89 West Bruce Street, Harrisonburg, Virginia.

† **December 12, 1991 - 7 p.m.** – Public Hearing
Juvenile and Domestic Relations Courtroom, Hobart Building, Routes 613 and 208, Spotsylvania, Virginia.

† **December 16, 1991 - 7 p.m.** – Public Hearing
Old Board Chambers, 9250 Lee Avenue, Lee and Grant Avenues, Manassas, Virginia.

† **December 18, 1991 - 7 p.m.** – Public Hearing
City Council Chambers, Municipal Center, Princess Anne & North Landing Roads, Virginia Beach, Virginia.

† **December 19, 1991 - 7 p.m.** – Public Hearing
James City County Human Services Building, Auditorium, 5249 Olde Towne Road, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-34-100 (formerly 355-34-01). Private Well Regulations.** The proposed regulations establish minimum location and construction standards for private wells and establish a

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permitting process for all private wells.

STATEMENT

Substance: The bulk of the proposed amendments to the current regulations were developed by the Department of Health in response to objections raised in August and September of 1990 by a group of well drillers and associated businessmen in the Tidewater area. These proposed amendments were also developed within the department's mandated responsibility to protect public health and ground water resources. The well drillers' objections, voiced after the closing of the public comment period, concerned what they considered a stringent minimum separation distance between Class IV (nondrinking wells) and building foundations treated with a termicide where certain site conditions exist. In response to their objections, the commissioner issued a variance reducing the minimum separation distance from 100 feet to 25 feet for Class IV wells conditioned upon the wells meeting certain construction criteria and site conditions. These requirements and the reduction to 25 feet are incorporated into the regulations.

Fiscal Impact: The changes to the regulations should have little fiscal impact on the department. The regulations do not place any additional requirements on the department. However, permitting of Class IV wells should be easier since the necessity to record and issue a variance is eliminated in most cases.

By adopting the proposed changes to the regulations more citizens will be able to obtain permits that would have previously been denied by the original regulations. Unlike the current procedure, these permits will no longer require a variance.

Basis: Section 32.1-176 of the Code of Virginia authorizes the Board of Health to promulgate regulations pertaining to the location and construction of private wells in the Commonwealth.

Statutory Authority: § 32.1-176 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Gary L. Hagy, Assistant Director, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

November 26, 1991 - 9:30 a.m. - Open Meeting
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia. ☐

The council will conduct its monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad

St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☐

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January 15, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed regulation will amend regulations to require health care institutions to file certified audited financial statements with the council no later than 120 days after the end of the institutions's fiscal year. A 30-day extension could be granted for extenuating circumstances. A late charge of \$10 per working day would be assessed for filings submitted past the due date.

Statutory Authority: §§ 9-158, 9-159 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until January 15, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☐

BOARD FOR HEARING AID SPECIALISTS

November 25, 1991 - 10 a.m. - Public Hearing

Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Hearing Aid Specialists intends to amend regulations entitled: **VR 375-01-02. Board for Hearing Aid Specialists Regulations.** The proposed amendments will clarify fees, licensure requirements for physicians, licensure requirements for endorsements, and audiometer calibrations for hearing aid specialists.

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

Written comments may be submitted until November 22, 1991.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond VA 23230-4917, telephone (804) 367-8534.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

November 6, 1991 - 10 a.m. - Open Meeting
Council Conference Room, 9th Floor, Monroe Building, Richmond, Virginia.

A general business meeting.

Contact: Mike Mullen, Associate Director, 101 N. 14th Street, 9th Floor Monroe Building, Richmond, Virginia 23219, telephone (804) 225-2610.

VIRGINIA HISTORIC PRESERVATION FOUNDATION

November 13, 1991 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia.

A general business meeting.

Contact: Hugh C. Miller, Director, Department of Historic Resources, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

DEPARTMENT OF HISTORIC RESOURCES

November 6, 1991 - 7 p.m. - Public Hearing
City Council Chambers, 11th Floor, Norfolk City Hall, Norfolk, Virginia.

November 7, 1991 - 7 p.m. - Public Hearing
Council Chambers, Roanoke City Hall, Roanoke, Virginia.

Pursuant to Senate Joint Resolution No. 162, the department will hold public hearings on the financial impact of landmark designation.

Contact: H. Bryan Mitchell, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

November 5, 1991 - 9 a.m. - Open Meeting
December 3, 1991 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

November 15, 1991 - 1 p.m. - Open Meeting
601 S. Belvidere Street, Richmond, Virginia.

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations, General Provisions for Programs of the Virginia Housing Development Authority, Rules and Regulations for Multi-Family Housing Developments, Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income, Rules and Regulations for Allocation of Low-Income Housing Tax Credits, Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons, and Rules and Regulations for the Acquisition of Multi-Family Housing Developments; and (v) 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 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority. The purpose of the proposed amendments is to modify the rules and regulations - general provisions for programs of the Virginia Housing Development Authority in order to change the income limits for units in developments financed by mortgage loans approved by the authority on or after November 19, 1991.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.** The purpose of the proposed amendments is to modify the rules and regulations for multi-family housing developments in order to make certain reductions in the income limits of occupants of multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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November 15, 1991 – Written comments may be accepted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.** The purposes of the proposed amendments are to improve the availability of the authority's single family program through the utilization of redevelopment and housing authorities and field originators, to modify the maximum sales prices to reflect current market conditions, to clarify the authority of the executive director as to the effective date of any increases in income limits and as to the waiver of income limits and maximum sales prices in certain circumstances, and to eliminate certain restrictions and reporting and monitoring requirements imposed on condominiums.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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November 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.** The purpose of the proposed amendments is to modify the rules and regulations with regard to the reservation of federal low-income housing tax credits from the state's tax credit ceiling for subsequent taxable years and to amend such rules and regulations to comply with the monitoring requirements imposed by changes to § 42 of the Internal Revenue Code which become effective January 1, 1992.

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

Written comments may be submitted until November 8, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.** The purpose of the proposed amendments is to modify the rules and regulations for multi-family housing developments for mentally disabled persons in order to reduce the income limit for occupants of multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: VR 400-02-0014. **Rules and Regulations for the Acquisition of Multi-Family Housing Developments.** The purpose of the proposed amendments is to modify the rules and regulations for the acquisition of multi-family housing developments in order to make certain reductions in the income limits of occupants of multi-family rental housing developments for which the board of the authority has approved the acquisition on or after November 19, 1991.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

November 11, 1991 - 1 p.m. – Open Meeting
The Homestead, Hot Springs, Virginia.

A regular meeting to be held in conjunction with the annual conference of the Virginia Association of Counties. Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by November 2.

Contact: Robert H. Kirby, Secretary, 702 Eighth Street Office Building, 805 East Broad Street, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

DEPARTMENT OF LABOR AND INDUSTRY

January 14, 1992 - 7 p.m. – Public Hearing
Fourth Floor Conference Room, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: VR 425-01-81. **Regulations Governing the Employment of Minors on Farms, in Gardens, and in Orchards.** Provision of regulations concerning child labor in agriculture.

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 October 28, 1991.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Powers-Taylor Building, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

Apprenticeship Council

† **November 21 1991 - 10 a.m. – Open Meeting**
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. ☒

A regular meeting of the Apprenticeship Council.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

LIBRARY BOARD

November 13, 1991 - 9:30 a.m. – Open Meeting
January 21, 1992 - 9:30 a.m. – Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION ON LOCAL GOVERNMENT

November 11, 1991 - 9 a.m. – Open Meeting
The Homestead, Hot Springs, Virginia.

A regular meeting to consider such matters as may be presented. The meeting will be held in conjunction with the annual conference of the Virginia Association of Counties.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by November 2, 1991.

Contact: Barbara Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone, (804) 786-6508 or (804) 786-1860/TDD ☎

LONG-TERM CARE COUNCIL

† **November 15, 1991 - -- Open Meeting**
Virginia Housing and Redevelopment Authority, 601 S. Belvidere Street, Conference Room #2, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Calendar of Events

A general business meeting.

Contact: Janet Lyncy, Director, Long-Term Care Council, 700 East Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-2271.

MARINE RESOURCES COMMISSION

November 26, 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 and licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P. O. Box 756, Room 1006, Newport News, Virginia 23607, telephone (804) 247-8088.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† **January 3, 1992** — 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 Case Management for the Elderly. VR 460-03-3.1102. Case Management Services.** This regulation proposes to make permanent policies which are substantially the same as the existing emergency regulation.

STATEMENT

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-324, 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 an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA.

Purpose: This proposal promulgates permanent regulations to supersede the existing emergency regulations of substantially the same policy.

Summary and Analysis: The 1990 General Assembly directed the Long-Term Care Council, chaired by the Secretary of Health and Human Resources, to develop policy and implementation guidelines for a statewide Case Management System for Elderly Virginians. Appropriations were given to fund pilot projects in FY 92. In developing these pilot projects, the Council was directed to consider the following principles adopted by the Subcommittee on Long-Term Care of the Joint Subcommittee on Health Care for All Virginians:

1. All elderly citizens should be eligible for services on a sliding fee basis;
2. The use of Medicaid funds should be optimized;
3. Case managers should serve as brokers for all private and public services in long term care;
4. The program should promote public/private partnerships;
5. A uniform assessment tool which can be incorporated into a statewide data base should be used;
6. The program should be responsive to varying local demands; and
7. The most cost-effective forms of care should be used.

During early 1991, the Long-Term Care Council issued a Request for Proposals and three proposals were selected for funding during FY 92. These three pilots represent an urban area, a rural area and a pilot including both urban and rural areas.

Because the Subcommittee on Health Care for All Virginians directed that the pilot projects use Medicaid funding where feasible, this amendment to the State Plan for Medical Assistance is being submitted. The qualifications of the case manager are those appearing in the Request for Proposal (RFP) published by the Long-Term Care Council. The target group follows that of the RFP. In the emergency regulations, Medicaid was directed toward a more dependent group of individuals (dependent in 3 or more activities of daily living (ADL)).

than the overall group specified in the RFP because of the large number of Medicaid eligible individuals age 60 and over in the geographic areas within the approved pilot programs. Because the state matching funds are limited, it was thought to be necessary to define the target population for Medicaid coverage more narrowly to ensure that Medicaid payments will not exceed the amount allotted to Medicaid from the funds appropriated for the pilots. However, experience during the first quarter of the pilot year has demonstrated a slower rate of enrollment than projected.

The only differences between the existing emergency regulation and this proposed permanent regulation are as follows. Individuals selected for this service must be functionally dependent in 2 ADLs rather than the 3 contained in the emergency regulation. Also, "transferring", the ability to move from a chair to the bed, for example, has been added as a functional activity in the list of activities of daily living. With these changes the proposed regulations will provide the same criteria for Medicaid as for non-Medicaid pilot program participants.

Impact: Budgetary adjustments have already been accomplished incident to the promulgation of the existing emergency regulation. The three pilot projects selected by the Long-Term Care Council include: Fairfax County and the cities of Fairfax and Falls Church; Planning Districts 1, 2, 3 (except for Washington County and the City of Bristol), 4, 17, 18, 20, 21, 22. These areas include 33,635 Medicaid eligible individuals age 60 and over.

Analyzing nursing home preadmission screening information and information on the number of individuals currently served in nursing homes and home and community-based waiver services, DMAS estimates that approximately 2,762 individuals will be referred for case management in the three pilot areas. The average duration of case management services of four months is estimated based upon the advice of experts in the field now serving this population. The fee for case management has been set at \$100 per month.

The department estimates that case management pilot programs will begin admitting clients to case management in July, 1991. However, it is anticipated that the pilot projects will not reach the full caseload until the beginning of the second quarter of the fiscal year. Thereafter it is anticipated that the pilots will serve a total average monthly caseload of 920 cases. Approximately 200 cases have been enrolled during the first quarter due to slow program start up. However, with the revision in patient criteria enrollments should keep pace with these estimates.

July.....230	January.....920
August.....460	February.....920
September....690	March.....920
October.....920	April.....920
November.....920	May.....920
December....920	June.....920

This caseload results in 9,660 client months of service during FY 92. $9,660 \times \$100 = \$966,000$ estimated total expenditures for case management services to Medicaid eligible individuals. \$500,000 GF has been set aside from the \$2 million appropriated for the case management pilots to provide the state matching funds for Medicaid. The federal matching rate is 50%. Therefore, there is \$1 million available for Medicaid case management payments.

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

Written comments may be submitted until 4:30 p.m., January 3, 1992, to Ann E. Cook, Eligibility and Regulatory Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

BOARD OF MEDICINE

November 22, 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 465-10-01. Certification for Radiological Technology Practitioners.** The proposed regulations establish educational requirements, examination, and fees for certification to practice as a Radiological Technology Practitioner.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 22, 1991, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

Credentials Committee

† **December 14, 1991 - 8 a.m.** – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia in open and executive session; and (iii) discuss any other items which may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director,

Calendar of Events

1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Executives Committee

† **December 13, 1991 - 9 a.m.** – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review closed cases, cases/files requiring administrative action, and consider any other items which may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Physical Therapy

January 17, 1992 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) review and discuss regulations, bylaws, procedure manuals; (ii) receive reports; and (iii) discuss other items which may come before the advisory board. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Committee on Radiological Technology Practitioners

December 13, 1991 - 1 p.m. – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review and discuss public comments and prepare recommendations to the full board on the proposed Regulations Governing the Practice of Radiological Technology Practitioners (VR 465-10-01). The Advisory Committee will not entertain public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Respiratory Therapy

November 14, 1991 - 2 p.m. – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) review the application process; (ii) review the regulations; (iii) review proposed amendments to the Code which may impact the practice of respiratory therapy; and (iv) review such

other business which may come before it. The Advisory Board may entertain public comments where appropriate.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

November 7, 1991 - 7 p.m. – Open Meeting
December 5, 1991 - 7 p.m. – Open Meeting
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. to 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 South Main Street, No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

MIGRANT AND SEASONAL FARMWORKERS BOARD

† **November 20, 1991 - 10 a.m.** – Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia. ☒

A regular meeting of the board. Immediately following the conclusion of the regular meeting, the Subcommittee on Complaint Resolution Process will meet.

Contact: Marilyn Mandel, Director, Planning and Policy Analysis, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2385.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

November 9, 1991 - 8:30 a.m. – Open Meeting
Virginia Military Institute, Smith Hall Board Room, Smith Hall (administration building), Lexington, Virginia. ☒

A regular meeting to consider committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

MILK COMMISSION

† **November 6, 1991 - 11 a.m.** – Public Hearing
State Capitol Building, House Room 1, Richmond, Virginia. ☒

A public hearing to consider a proposed amendment to Regulation No. 8 of the current rules and regulations.

Contact: Ira W. Harlow, Deputy Administrator, 200-202 N. Ninth Street, Suite 1015, Richmond, VA 23219, telephone (804) 786-2013.

DEPARTMENT OF MOTOR VEHICLES

† **November 22, 1991 - 9 a.m.** – Public Hearing
DMV Headquarters, Room 320, 2300 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to repeal existing regulations entitled **VR 485-10-8401. Public Participation Guidelines** and adopt new regulations entitled: **VR 485-10-9101. Public Participation Guidelines for Regulation Development and Promulgation.** The board proposes to repeal the existing regulation and establish new guidelines for receiving input and participation from interested citizens in the development of any regulation which the department proposes.

STATEMENT

Basis: The Administrative Process Act, Article 2, § 9-6.14:7.1, Code of Virginia.

Purpose: To promulgate guidelines for receiving input and participation from interested citizens in the development of any regulations which the department proposes.

Substance: The guidelines deal with the way in which interested parties are identified and notified regarding any regulation which the department proposes. In addition, the guidelines also set forth the procedure for submission of any proposed regulation in compliance with the Administrative Process Act.

Issues: The proposed regulation addresses the issue of compliance with the Virginia Administrative Process Act for the development and promulgation of regulations by the department.

Impact: These guidelines may affect any person, group, or organization interested in a proposed regulation by the way in which that person, group, or organization is identified and notified concerning the development and promulgation of that regulation by the department.

Statutory Authority: § 46.2-203 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Peggy S. McCrerey, Planning Director, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0429.

BOARD OF NURSING

November 18, 1991 - 9 a.m. – Open Meeting
November 19, 1991 - 9 a.m. – Open Meeting
November 20, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting to consider matters related to educational programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board. Public comment will be received during an open forum session beginning at 11 a.m. on Monday, November 18, 1991.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

BOARD OF OPTOMETRY

† **November 13, 1991 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #4, Richmond, Virginia.

Informal conference are scheduled for this meeting.

Contact: Lisa J. Russell, 1601 Rolling Hills Drive, Richmond, VA 23220-5005, telephone (804) 662-9910.

PERINATAL SERVICES ADVISORY BOARD

† **November 14, 1991 - 12:30 p.m.** – Open Meeting
The United Way Building, 224 East Broad Street, Room 101, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A regular meeting. Subcommittees of the board will be meeting in various rooms throughout the United Way Building beginning at 10 a.m. Please contact the Division of Maternal and Child Health for additional information.

Contact: Alice S. Linyear, M.D., M.P.H., Director, Division of Maternal and Child Health, 1500 East Main Street, Room 137, Richmond, VA 23219, telephone (804) 786-7367.

BOARD OF PHARMACY

November 23, 1991 – Written comments may be submitted until this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **VR 530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The proposed amendment established 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 (6) and 54.1-3302 of the Code of Virginia.

Written comments may be submitted until November 23, 1991.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

Regulatory Review Committee

† **November 20, 1991 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #4, Richmond, Virginia.

Regulatory review committee meeting. No public comments will be received at this meeting.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS

† **November 18, 1991 - 9 a.m.** – Open Meeting
9504 A Lee Highway, Fairfax, Virginia.

Examination committee meeting. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9912.

REAL ESTATE APPRAISER BOARD

November 12, 1991 - 2 p.m. – Public Hearing
Council Chambers, Room 450, Municipal Building, 215 Church Avenue, 4th Floor, Roanoke, Virginia.

November 19, 1991 - 2 p.m. – Public Hearing
Department of Social Services, Pembroke Office Park, Pembroke IV, Suite 300, Virginia Beach, Virginia.

November 20, 1991 - 2 p.m. – Public Hearing
Board of Supervisors Board Room, Massey Building, A

Level, 4100 Chain Bridge Road, Fairfax, Virginia.

December 10, 1991 - 2 p.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Appraiser Board intends to adopt regulations entitled: **VR 583-01-03. Real Estate Appraiser Board Regulations.** The purpose of the proposed regulations is to establish the qualifications for licensure and standards of practice for real estate appraisers.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until December 24, 1991.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

† **December 10, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

REAL ESTATE BOARD

November 21, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A regular meeting of the board to consider board business including license applications and disciplinary cases.

Contact: Joan L. White, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

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November 21, 1991 - 2 p.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Virginia Real Estate Board Licensing Regulations.** The proposed regulations relate to the licensing and conducting of real estate business in accordance with established standards.

Calendar of Events

Statutory Authority: §§ 9-6.14:1, 54.1-201 and 54.1-2105 of the Code of Virginia.

Written comments may be submitted until January 5, 1992.

Contact: Joan L. White, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

STATE CERTIFIED SEED BOARD

† **December 12, 1991 - 1:30 p.m.** – Open Meeting
104 F Hutcheson Hall, Blacksburg, Virginia. ☒

A meeting to report on program activities and review certification standards. Public comment will be received.

Contact: Dr. Robert Q. Cannell, Chairman, VPI and SU, 333 Smyth Hall, CSES Department, Blacksburg, VA 24061, telephone (703) 231-8653.

STATE BOARD OF SOCIAL SERVICES

November 20, 1991 - 2 p.m. – Open Meeting
November 21, 1991 - 9 a.m. (if necessary) – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

A work session and formal business meeting.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☒

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

November 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 615-01-37. Aid to Dependent Children (ADC) Program - Elimination of Monthly Reporting.** The regulation eliminates the monthly reporting requirement as a condition of eligibility. The proposed regulation is allowed under authority of the Omnibus Budget Reconciliation Act (OBRA) of 1990 - P.L. 101-508.

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

Written comments may be submitted until November 8, 1991, to Mr. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

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November 30, 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 amend regulations entitled: **VR 615-45-2. Child Protective Services Client Appeals.** The purpose of the amendments to the regulation is to strengthen and clarify the hearing process for appeals of dispositions in child abuse and neglect cases.

Statutory Authority: § 63.1-248.6:1 of the Code of Virginia.

Written comments may be submitted until November 30, 1991, to Donna Douglas, Bureau of Client Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret Friedenberg, Regulatory Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

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† **January 4, 1992** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-33-01. Fee Requirements for Processing Applications.** This regulation contains the requirements and procedures for licensees to follow in submitting the application processing fee which is to be submitted with all new and renewal applications. It also includes a provision for a \$15 fee to be charged for checks which must be returned to the applicant because of insufficient funds.

STATEMENT

Subject: The regulation, Fee Schedule for Processing Applications, is being proposed for a 60-day period of public comment.

Basis: Sections 63.1-174.01 and 63.1-195.5 of the Code of Virginia empower the Board of Social Services to set fees to be charged for processing applications for licenses for homes for adults, adult day care centers and child welfare agencies. These fees are to be used for the development and delivery of training for operators and staff of these licensed facilities.

Purpose: The 1990 session of the General Assembly passed legislation providing for the biennial licensure of child

Calendar of Events

care facilities. The fee schedule is being revised to establish procedures for collecting fees for those facilities which will be eligible for a licensure period greater than 12 months. The actual amount of the fees is not being revealed.

Substance: The proposed regulation specifies that: (i) fees are to be used for the development and delivery of training for licensees and their staff; (ii) fees are to be collected at the time of processing all new and renewal applications; (iii) when a facility is eligible to receive a license for a period of more than 12 months, the required fee will be based upon the length of the total licensure period; (iv) information in the new or renewal application packet will indicate whether the applicant is eligible to receive a license for a period beyond 12 months; and (v) a \$15 fee will be charged for checks which must be returned to the applicant because of insufficient funds.

Issues: This regulation establishes that fees are to be collected at the time of new and renewal applications and that these fees are to be used for the development and provision of training for staff of licensed facilities.

Impact: This regulation affects all licensed providers. On July 1, 1992, all child care facilities will be eligible to receive a biennial license; therefore, they will be required to pay the required fee for a two-year period rather than the one year to which they have been accustomed. This will not result in any additional fees paid.

Statutory Authority: §§ 63.1-25, 63.1-174.01 and 63.1-196.5 of the Code of Virginia.

Written comments may be submitted until January 4, 1992.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

VIRGINIA SOYBEAN BOARD

† **November 13, 1991 - 6 p.m.** – Open Meeting
Williamsburg Hilton Conference Center, Williamsburg, Virginia.

The meeting to discuss project proposals and other items of business pertaining to the soybean industry.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, Virginia 22572, telephone (804) 333-3710 or Scats (804) 371-2163.

GOVERNOR'S TASK FORCE ON SUBSTANCE ABUSE AND SEXUAL ASSAULT ON COLLEGE CAMPUSES

† **December 11, 1991 - 1 p.m.** – Open Meeting
General Assembly Building, House Room D, 910 Capitol

Street, Richmond, Virginia. ☒

Task force meeting.

Contact: Kris Ragan, Staff Assistant, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-6316.

COMMONWEALTH TRANSPORTATION BOARD

November 20, 1991 - 2 p.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

November 21, 1991 - 10 a.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1491 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

TREASURY BOARD

† **November 20, 1991 - 9 a.m.** – Open Meeting
† **December 18, 1991 - 9 a.m.** – Open Meeting
James Monroe Building, 3rd Floor, 101 North 14th Street, Richmond, Virginia. ☒

A regular meeting.

Contact: Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

VIRGINIA RACING COMMISSION

† **November 20, 1991 - 9:30 a.m.** – Open Meeting
VSRS Building, 1200 East Main Street, Richmond, Virginia. ☒

A regular commission meeting and review of the first pari-mutuel race meeting in the Commonwealth.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

November 12, 1991 - 9 a.m. - Open Meeting
Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of October 8, 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, Virginia 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

VIRGINIA VETERANS CARE CENTER

Board of Trustees

† **November 22, 1991 - 10 a.m. - Open Meeting**
Capitol Building, House Room 4, Richmond, Virginia. ☒

A regular meeting to continue discussion of agenda and programs for the Virginia Veterans Care Center.

Contact: Arlene Smith, Cabinet Support Secretary, 633 Ninth Street Office Building, Richmond, Virginia 23212, telephone (804) 786-1201.

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

November 13, 1991 - 1 p.m. - Open Meeting
Wayside Inn, Middletown, Virginia.

Council committees meet.

November 13, 1991 - 7:15 p.m. - Open Meeting
Lord Fairfax Community College, Special Events Center, Middletown, Virginia.

Session to receive comments on vocational-technical education.

November 14, 1991 - 8:30 a.m. - Open Meeting
Wayside Inn, Middletown, Virginia.

Council business session.

Contact: George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Road, Richmond, Virginia 23237, telephone (804) 375-6218.

VIRGINIA VOLUNTARY FORMULARY BOARD

November 22, 1991 - 10 a.m. - Public Hearing
109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on February 15, 1991, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on November 22, 1991, will be made a part of the hearing record.

January 9, 1992 - 10:30 a.m. - Open Meeting
Washington Building, 2nd Floor Board Room, 1100 Bank Street, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, Virginia 23219, telephone (804) 786-4326.

DEPARTMENT OF WASTE MANAGEMENT

November 4, 1991 - 10 a.m. - Open Meeting
Roanoke County Administrative Center, 3837 Brambleton Avenue, S.W., Roanoke, Virginia. ☒ (Interpreter for deaf provided upon request)

NOTE: CHANGE IN MEETING DATE
November 12, 1991 - 10 a.m. - Open Meeting
Holiday Inn South, US 1 and I-95, Fredericksburg, Virginia. ☒ (Interpreter for deaf provided upon request)

The department will present the preliminary draft of its proposed Solid Waste Permit Application Fee Regulation to discuss alternatives and to solicit comments from the public and regulated community.

Contact: W. Gulevich, Director, Division of Technical

Calendar of Events

Services, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 371-2383 or (804) 371-8737/TDD ☎

STATE WATER CONTROL BOARD

November 7, 1991 - 7 p.m. – Open Meeting
State Water Control Board, 4900 Cox Road, Innsbrook Corporate Center, Board Room, Richmond, Virginia.

The purpose of the meeting is to receive views and comments and to answer questions of the public on the following Notices on Intended Regulatory Action:

1. VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges Less Than 1,000 Gallons Per Day.

2. VR 680-14-10. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from Molluscan Shellfish and Crustacea Processing Establishments.

3. VR 680-14-11. Corrective Action Plan General Permit for Underground Storage Tanks.

Contact: Richard Ayers, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

† **November 14, 1991 - 7 p.m. – Public Hearing**
Goochland High School Auditorium, 1860 Sandy Hook Road, Goochland, Virginia. ☒

A public hearing to receive comments on the issuance or denial of the proposed modification of Virginia Pollution Abatement (VPA) Permit No. VPA00503 for Bio Gro Systems, Incorporated, 180 Admiral Cochran Drive, Suite 305, Annapolis, Maryland 21401, which operates a sludge storage lagoon in Goochland County and land applies municipal sludge on farm sites throughout Goochland and Hanover Counties. The proposed modification consists of the addition of new farm sites in Hanover and Goochland Counties and the addition of four new sludge sources (Proctor's Creek, Falling Creek, Piscataway and Back River Wastewater Treatment Plants) to the VPA permit.

Contact: Lori Freeman Jackson, Hearings Reporter, Office of Policy Analysis, State Water Control Board, P. O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5163.

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November 21, 1991 - 7 p.m. – Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: VR

680-16-02. Roanoke River Basin Water Quality Management Plan. The proposed amendment would delete those portions of the Plan to be covered by adoption, through a separate regulatory action, of the Upper Roanoke River Subarea Water Quality Management Plan.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 6, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Wellford S. Estes, State Water Control Board, West Central Regional Office, P.O. Box 7017, Roanoke, Virginia 24019, telephone (703) 857-7432.

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November 21, 1991 - 7 p.m. – Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-16-02.1. Upper Roanoke River Subarea Water Quality Management Plan.** The proposal is to adopt the Upper Roanoke River Subarea Water Quality Management Plan which updates those portions of the Roanoke River Basin Water Quality Management Plan in the Upper Roanoke River Subarea. A separate regulatory action will amend the Basin Plan to delete those areas to be covered by the Subarea Plan.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 6, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Wellford S. Estes, State Water Control Board, West Central Regional Office, P.O. Box 7017, Roanoke, Virginia 24019, telephone (703) 857-7432.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING COMPARATIVE PRICE ADVERTISING

November 13, 1991 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Joint subcommittee will review proposed legislation. (HJR 337)

Contact: Mary Geisen, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA CODE COMMISSION

November 27, 1991 - 10 a.m. – Open Meeting
General Assembly Building, Sixth Floor Conference Room, Richmond, Virginia.

The commission will continue its work on the revision of Title 28.1 (fish, oysters, shellfish, etc.) of the Code of Virginia, and will hold a general business meeting.

December 11, 1991 - 10 a.m. – Open Meeting
General Assembly Building, Sixth Floor Conference Room, Richmond, Virginia.

The commission will meet to discuss annual publication of the Code of Virginia, electronic publishing, and the proposed publication of a Virginia Administrative Code.

Contact: Joan W. Smith, Registrar of Regulations, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

CONTINUING STUDY OF FUNDING AND STAFFING NEEDS OF CONSTITUTIONAL OFFICES

† **November 13, 1991 - 9:30 a.m. – Open Meeting**
General Assembly Building, 9th Floor Appropriations Committee Room, 910 Capitol Street, Richmond, Virginia.

A continuing study. (HJR 394)

Contact: Linda Ladd, General Assembly Building, 9th Floor, Richmond, VA 23219, telephone (804) 786-1837.

HOUSE APPROPRIATIONS COMMITTEE

† **November 18, 1991 - 9:30 a.m. – Open Meeting**
Henrico East Government Center, 3820 Nine Mile Road, Richmond, Virginia.

A monthly meeting.

Contact: Linda Ladd, General Assembly Building, 9th Floor, Richmond, VA 23219, telephone (804) 786-1837.

VIRGINIA HOUSING STUDY COMMISSION

November 15, 1991 - 9 a.m. – Open Meeting
Richmond Radisson Hotel, Richmond, Virginia.

The commission will meet to discuss housing issues in Virginia and SJR 204.

Contact: Nancy M. Ambler, Director, 205 North 4th Street, Richmond, VA 23219, telephone (804) 225-3797. Persons wishing to speak should contact Nancy Blanchard, Department of Housing and Community Development, 205 North 4th Street, Richmond, VA 23219, telephone (804) 786-7891.

JOINT SUBCOMMITTEE STUDYING HUMAN IMMUNODEFICIENCY VIRUSES (AIDS)

November 25, 1991 - 10 a.m. – Open Meeting
December 18, 1991 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The subcommittee will hear presentations and deliberations on issues related to testing. (HJR 438)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE TO STUDY INCENTIVE AND OBSTACLES FACING BUSINESS WHEN MAKING LOCATION DECISIONS IN VIRGINIA

† **November 19, 1991 - 10 a.m. – Open Meeting**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Issues concerning incentive and obstacles facing businesses making location decisions in Virginia will be discussed. (HJR 448)

Contact: Maria Everett, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING MATERNAL AND PERINATAL DRUG EXPOSURE

November 25, 1991 - 1:30 p.m. – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to review initial drafts of legislation and receive update on statewide activities. (HJR 387)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

YOUTH SERVICES COMMISSION

December 3, 1991 - 9 a.m. – Open Meeting
General Assembly Building, House Appropriations

Calendar of Events

Committee Room, 9th Floor, 910 Capitol Street, Richmond, Virginia.

Presentations by state agencies and statewide organizations and associations on their legislative agendas on youth related issues for the 1992 General Assembly session.

December 3, 1991 - 1 p.m. - Open Meeting
General Assembly Building, House Appropriations Committee Room, 9th Floor, 910 Capitol Street, Richmond, Virginia.

Commission business meeting.

Contact: Nancy H. Ross, Executive Director, or Mary R. Simmons, General Assembly Building, Room 517B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

November 4

† Cosmetology, Board for
Waste Management, Department of

November 5

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Professional Engineers
Hopewell Industrial Safety Council

November 6

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Higher Education for Virginia, State Council of

November 7

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Architects
Dentistry, Board of
Emergency Planning Committee, Local - Chesterfield County
Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board
Water Control Board, State

November 8

Dentistry, Board of

November 9

Military Institute, Virginia
- Board of Visitors

November 11

Intergovernmental Relations, Advisory Commission on

Local Government, Commission on

November 12

ASAP Policy Board - Rockbridge
- Board of Directors
Virginia Resources Authority
† Waste Management, Department of

November 13

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Comparative Price Advertising, Joint Subcommittee Studying
Corrections, Board of
† Emergency Planning Committee, Local - Goochland County
Emergency Planning Committee, Local - Portsmouth
† Funding and Staffing Needs of Constitutional Offices, Continuing Study of
Historic Preservation Foundation, Virginia
Library Board
† Optometry, Board of
† Soybean Board, Virginia

November 14

† Chesapeake Bay Local Assistance Board
† Child Day-Care Council
Corrections, Board of
- Liaison Committee
Medicine, Board of
- Advisory Board on Respiratory Therapy
† Perinatal Services Advisory Board

November 15

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors
† Building Code Technical Review Board, State
† Residential Facilities for Children, Coordinating Committee for Interdepartmental Regulation of Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Housing Development Authority, Virginia
† Long-Term Care Council
Virginia Housing Study Commission

November 18

† Cosmetology, Board for
† Education Loan Authority, Virginia
Emergency Planning Committee, Local
- County of Prince William, City of Manassas and City of Manassas Park
† Funeral Directors and Embalmers, Board of
† House Appropriations Committee
† Professional Counselors, Board of

November 19

† Funeral Directors and Embalmers, Board of
† Incentive and Obstacles Facing Business When Making Location Decisions in Virginia, Joint Subcommittee to Study

Calendar of Events

† Substance Abuse and Sexual Assault on College Campuses, Governor's Task Force on

November 20

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Community Colleges, State Board for
† Migrant and Seasonal Farmworkers Board
† Pharmacy, Board of
- Regulatory Review Committee
Social Service, State Board of
Transportation Board, Commonwealth
† Treasury Board
† Virginia Racing Commission

November 21

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Community Colleges, State Board for
† Compensation Board
† Education Assistance Authority, State
† Labor and Industry, Department of
- Virginia Apprenticeship Council
Real Estate Board
Social Service, State Board of
Transportation Board, Commonwealth

November 22

Board for Geology
† Veterans Care Center, Virginia
- Board of Trustees

November 25

Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Human Immunodeficiency Viruses, Joint Subcommittee Studying
Maternal and Perinatal Drug Exposure, Joint Subcommittee Studying

November 26

Marine Resources Commission

November 27

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Code Commission, Virginia

December 3

† Aging, Department for the
- Long-Term Care Ombudsman Program Advisory Council
Hopewell Industrial Safety Council
Youth Services Commission

December 5

† Chesapeake Bay Local Assistance Board
Emergency Planning Committee, Local - Chesterfield County
Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board

December 10

† Real Estate Appraiser Board

December 11

Code Commission, Virginia
Corrections, Board of

December 12

† Seed Board, State Certified

December 13

† Medicine, Board of
- Credentials Committee
- Executive Committee
- Advisory Committee on Radiological Technology Practitioners

December 16

Emergency Planning Committee, Local
- County of Prince William, City of Manassas and City of Manassas Park

December 18

Human Immunodeficiency Viruses, Joint Subcommittee Studying
† Treasury Board

December 19

† Compensation Board

December 20

† Residential Facilities for Children, Coordinating Committee for Interdepartmental Regulation of

January 9, 1992

Voluntary Formulary Board, Virginia

January 17

Medicine, Board of
- Advisory Board on Physical Therapy

January 21

Library Board

PUBLIC HEARINGS

November 6

Historic Resources, Department of
† Milk Commission

November 7

† Air Pollution Control, Department of
Historic Resources, Department of

November 12

Real Estate Appraiser Board

November 14

Calendar of Events

† Water Control Board, State

Labor and Industry, Department of

November 15

† Aging, Department for the

January 15

† Corrections, Department of

November 19

Real Estate Appraiser Board

November 20

Real Estate Appraiser Board

November 21

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
† Fire Services Board, Virginia
- Department of Fire Programs
Real Estate Board
Water Control Board, State

November 22

† Motor Vehicles, Department of
Voluntary Formulary Board, Virginia

November 25

Hearing Aid Specialists, Board for

November 26

† Aging, Department for the

December 2

† Health, Department of

December 3

† Health, Department of

December 4

† Health, Department of

December 8

† Health, Department of

December 10

† Health, Department of
Real Estate Appraiser Board

December 12

† Health, Department of

December 16

† Health, Department of

December 18

† Health, Department of

December 19

† Health, Department of

January 6, 1992

† Education, Department of

January 14