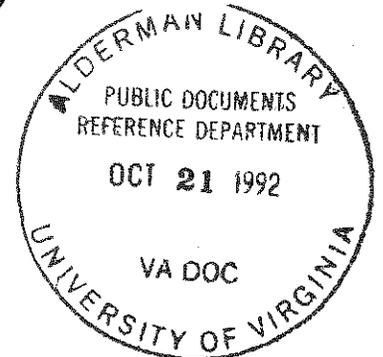
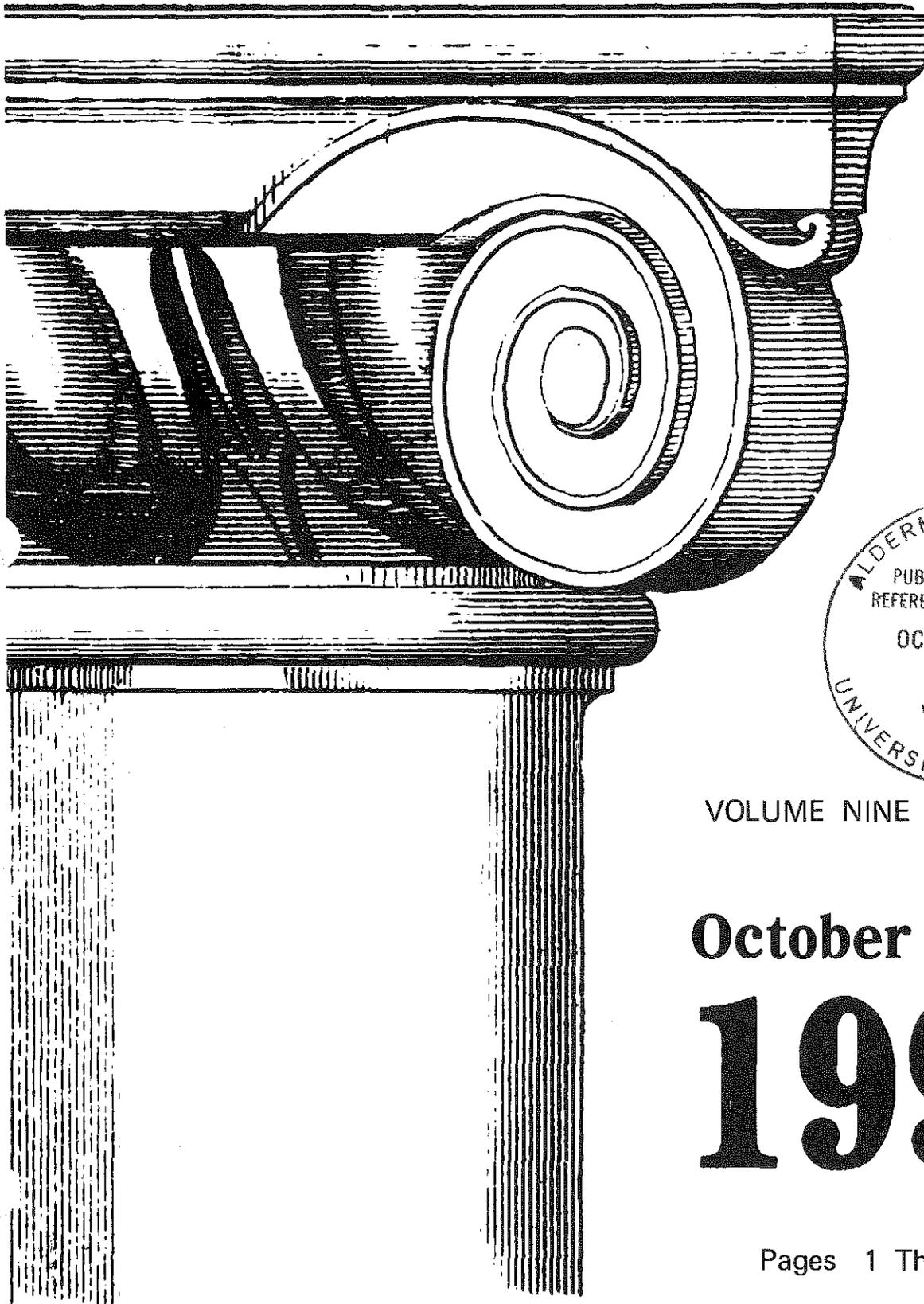


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THE VIRGINIA REGISTER

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OF REGULATIONS



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October 5, 1992

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VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

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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Symbol Key †

† Indicates entries since last publication of the Virginia Register

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-Incorporating Requirements of Title V of the Clean Air Act.** The purpose of the proposed action is to amend § 120-08-04 to incorporate the requirements of Title V of the Clean Air Act, as amended in November 1990.

Public meeting: A public meeting will be held by the Department in House Committee Room One, State Capitol Building, Richmond, Virginia, at 10 a.m. on November 18, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad hoc advisory group: The Department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by close of business October 21, 1992, and provide your name, address, phone number and the organization you represent (if any). Facsimile copies will be accepted only if followed by receipt of the original within three business days. Notification of the composition of the ad hoc advisory group will be sent to all applicants by November 4, 1992. If you are selected to be on the group, you are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation. The primary function of the group is to develop recommended regulation amendments for Department consideration through the collaborative approach of regulatory negotiation and consensus.

Federal statutory requirements: Title V of the Clean Air Act (the Act) as amended November 1990 provides a mechanism to implement the various requirements under the other titles in the Act through the issuance of operating permits. Under this title, the U.S. Environmental Protection Agency (EPA) is required to develop regulations with specific operating permit requirements. The federal regulations (40 CFR Part 70) were promulgated in final form on July 21, 1992. The states are required, in turn, to develop operating permit programs that meet the requirements specified in EPA's regulations. These programs are due to EPA for review by November 15, 1993.

The operating permits issued under this program should enhance the ability of EPA, the states, and citizens to enforce the requirements of the Act; clarify for the permitted sources exactly which air quality requirements apply; and also aid in implementing the Act by providing states with permit fees to support their programs.

A permit sets out for both the Department and the owner the regulatory requirements appropriate to that source's operation. The benefits are that the operator or owner knows what requirements must be fulfilled and the Department has an agreement with the owner through the permit that these requirements will be carried out. It enables the Department to more efficiently and effectively carry out its source surveillance activities while providing a clear mandate for each source on what its responsibility entails. An operating permit inclusive of all requirements pertaining to the source ensures that the owner of the source is fully informed of all applicable state and federal regulations. The operating permit program provides that both the Department and the owner conduct a periodic review of polluting activities to ensure that effective emission reductions are taking place.

At all facilities, operating conditions change over time, new technologies become available, and new regulatory requirements are developed that may necessarily change original permit conditions. Operating permits provide a mechanism to adapt to these changing conditions.

Owners of sources subject to compliance programs through new regulatory initiatives or other air quality planning requirements must sign a consent order which is, in effect, an agreement between the Department and the owner for the source to meet those initiatives or requirements. An operating permit program supplants the use of consent orders under these conditions and removes the negative connotation that comes with signed consent orders. Consent orders are generally used after a facility has been found in violation of the regulations when the Department needs an enforceable administrative mechanism to ensure that the facility's operation will change to avoid a violation in the future.

Current federal policy allows the use of emissions trading activities by sources to meet emission standards in a more cost effective manner. These activities include bubbling, netting, offsetting and banking. The operating permit provides a mechanism for implementing and enforcing emissions trading activities, provided EPA policy or a state generic policy, as appropriate, is followed. Currently these activities are enforced using consent orders which, as explained above, have a negative connotation.

Notices of Intended Regulatory Action

An operating permit provides the mechanism for the Department to assess any facility's compliance with the air quality standards and regulations that provide a basis to protect human health and the environment. The permit provides a direct enforcement mechanism for the Department to determine a facility's compliance whereas the enforcement of the standards and regulations without the permit is more difficult because specific conditions for the individual facility have not been derived from those standards and regulations.

The public participation requirements of the operating permit program provide an opportunity for citizens to review and to provide comments about the compliance performance of facilities emitting air pollutants along with the Department.

The 1990 amendments create a major change to the approach taken by the U.S. Congress in previous promulgations of the Act. Title V of the Act requires the states to develop operating permit programs to cover all stationary sources defined as major by the Act. Permits issued under these programs must set out standards and conditions that cover all the applicable requirements of the Act for each emission unit at each individual stationary source.

Section 502 (a) requires that the following sources be covered under the provisions of any Title V program:

1. Affected sources as defined under the acid deposition provisions of Title IV of the Act.
2. Major sources, defined as follows:
 - a. any source of air pollutants with the potential to emit 100 tons per year (tpy) or more of any pollutant;
 - b. in nonattainment areas designated as serious, any source emitting 50 tpy or more (in Virginia, the northern Virginia area is designated serious for ozone); for severe or extreme nonattainment areas, sources emitting 25 and 10 tpy, respectively; and
 - c. any source with the potential to emit 10 tpy of any hazardous air pollutant or 25 tpy of any combination of hazardous air pollutants regulated under section 112.
3. Any other source, including an area source, subject to a hazardous air pollutant standard under section 112.
4. Any source subject to new source performance standards under section 111.
5. Any source required to have a preconstruction review permit pursuant to the requirements of the PSD program under Title I, part C or the nonattainment area new source review program under

Title I, part D.

6. Any other stationary source in a category that EPA designates in whole or in part by regulation, after notice and comment.

Section 502 (b) sets out the minimum elements that must be included in each program, as follows:

1. Requirements for permit applications, including standard application forms, compliance plans and criteria for determining the completeness of applications.
2. Monitoring and reporting requirements.
3. A permit fee system.
4. Provisions for adequate personnel and funding to administer the program.
5. Authority to issue permits and assure that each permitted source complies with applicable requirements under the Act.
6. Authority to issue permits for a fixed term, not to exceed five years.
7. Authority to assure that permits incorporate emission limitations in an applicable implementation plan.
8. Authority to terminate, modify, or revoke and reissue permits for cause, which is not further defined, and a requirement to reopen permits in certain circumstances.
9. Authority to enforce permits, permit fees, and the requirement to obtain a permit, including civil penalty authority in a maximum amount of not less than \$10,000 per day, and appropriate criminal penalties.
10. Authority to assure that no permit will be issued if EPA objects to its issuance in a timely fashion.
11. Procedures for (a) expeditiously determining when applications are complete, (b) processing applications, (c) public notice, including offering an opportunity for public comment, and a hearing on applications, (d) expeditious review of permit actions, and (e) state court review of the final permit action.
12. Authority and procedures to provide that the permitting authority's failure to act on a permit or renewal application within the deadlines specified in the Act shall be treated as a final permit action solely to allow judicial review by the applicant or anyone also who participated in the public comment process to compel action on the application.
13. Authority and procedures to make available to the

Notices of Intended Regulatory Action

public any permit application, compliance plan, permit emissions or monitoring report, and compliance report or certification, subject to the confidentiality provisions of section 114(c) of the Act; the contents of the permit itself are not entitled to confidentiality protection.

14. Provisions to allow operational flexibility at the permitted facility.

Section 503 (b) requires that applicants shall submit with the permit application a compliance plan describing how the source will comply with all applicable requirements of the Act. The compliance plan must include a schedule of compliance and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every six months. The permittee must also certify that the facility is in compliance with any applicable requirements of the permit no less frequently than annually. The permittee must also promptly report any deviations from permit requirements to the permitting authority. OBL2★ Section 503 (d) specifies that a source's failure to have an operating permit shall not be a violation of the Act if the source owner submitted a timely and complete application for a permit and if he submitted other information required or requested to process the application in a timely fashion.

Section 503 (e) requires that a copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. Any information that is required of an applicant to submit and which is entitled to protection from disclosure under section 114 (c) of the Act can be submitted separately.

Section 504 specifies what is to be included in each operating permit issued under this program. Section 504 (a) requires that each permit shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every six months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements, including the requirements of any state implementation plan.

Section 504 (b) indicates that the EPA administrator may prescribe, by rule, procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated by the Act. Continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance.

Section 504 (c) requires that each permit issued under the program shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform

to applicable regulations issued under 504 (b). Any report required to be submitted by a permit issued to a corporation shall be signed by a responsible corporate official, who shall certify its accuracy.

Section 504 (d) allows the state permitting authority to issue a general permit covering numerous similar sources after notice and opportunity for public hearing. Any general permit shall comply with all program requirements. Any source governed by a general permit regulation must still file an application under this program.

Section 504 (e) allows the state permitting authority to issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of the Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under the Act. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location.

Section 504 (f) provides a permit shield for permittees. This section specifies that compliance with a permit issued in accordance with Title V shall be deemed in compliance with Section 502, or with the program. And unless otherwise provided by the EPA administrator and by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of the Act that relate to the permittee, if:

1. the permit includes the applicable requirements of those provisions, or
2. the permitting authority in acting on the permit application makes a determination relating to the permittee that such other provisions (which shall be referred to in such determination) are not applicable and the permit includes the determination or a concise summary thereof.

Section 503 (c) specifies that all sources required to be permitted under a Title V program are required to submit an application within 12 months after the date EPA approves the state's program. The state permitting authority may specify an earlier date for submitting applications. The state permitting authority must establish a phased schedule for acting on permit applications submitted within the first full year after program approval, and must act on at least one-third of the permits each year over a period not to exceed three years after approval of the program. After acting on the initial application, the permitting authority must issue or deny a complete application within 18 months after receiving that application.

Section 505 (a) requires the state permitting authority to send EPA a copy of each permit application and each permit proposed to be issued. For each permit application

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or proposed permit sent to EPA, Section 505 (a) also requires the permitting authority to notify all states whose air quality may be affected and that are contiguous to the state in which the emission originates, or that are within 50 miles of the source. This notice must provide an opportunity for these affected states to submit written recommendations respecting the issuance of the permit and its terms and conditions. Section 505 (b) provides for EPA objections to any permit which contains provisions that are not in compliance with the requirements of the Act or with the applicable State Implementation Plan. This section also provides that any person may petition the EPA administrator within 60 days after the expiration of the 45-day review period, if no objections were submitted by the EPA administrator. Furthermore the state permitting authority may not issue the permit if the EPA administrator objects to its issuance unless the permit is revised to meet the objection. If the state permitting authority fails to revise and submit the permit, EPA must issue or deny the permit in accordance with the requirements of Title V. Under section 505 (d), the permit program submitted by the state may not have to meet these requirements for sources other than major sources covered by the program. Section 505 (e) allows the EPA administrator to terminate, modify, or revoke and reissue an operating permit issued under a state's program, if he finds that cause exists for such action.

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

Written comments may be submitted until November 20, 1992, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy Analyst, Division of Program Development, 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—Permit Fee Requirements.** The purpose of the proposed action is to develop a regulation to meet the permit fee requirements of Title V of the Clean Air Act and of § 10.1-1322 of the Code of Virginia.

Public meeting: A public meeting will be held by the Department in House Committee Room One, State Capitol Building, Richmond, Virginia, at 10 a.m. on November 19, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad hoc advisory group: The Department will form an ad

hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by close of business October 21, 1992, and provide your name, address, phone number and the organization you represent (if any). Facsimile copies will be accepted only if followed by receipt of the original within three business days. Notification of the composition of the ad hoc advisory group will be sent to all applicants by November 4, 1992. If you are selected to be on the group, you are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation. The primary function of the group is to develop recommended regulation amendments for Department consideration through the collaborative approach of regulatory negotiation and consensus.

Federal and state statutory requirements. Title V of the Clean Air Act (the Act) as amended November 1990 provides a mechanism to implement the various requirements under the other titles in the Act through the issuance of operating permits. Under this title, the U.S. Environmental Protection Agency (EPA) is required to develop regulations with specific operating permit requirements. The federal regulations (40 CFR Part 70) were promulgated in final form on July 21, 1992. The states are required, in turn, to develop operating permit programs that meet the requirements specified in EPA's regulations. These programs are due to EPA for review by November 15, 1993.

One of the requirements of Title V is for states to develop permit fee programs to use in funding the costs of developing, implementing and enforcing the other requirements of Title V. The permit fees obtained should fund the resources necessary for states to carry out their programs. The basis of the required permit fees is a charge per ton of emissions of regulated pollutants emitted by stationary sources covered under Title V. While the permit fee program provides a benefit to state agencies, the program also provides other benefits related to air quality. Permit fees charged for emissions may provide an incentive to stationary sources to keep their emissions as low as possible. The charging of permit fees also more directly allows the costs of the air quality programs to be paid for by those who create the pollution, rather than indirectly through the state taxation system.

The 1990 amendments create a major change to the approach taken by the U.S. Congress in previous promulgations of the Act. Title V of the Act requires the states to develop operating permit programs to cover all stationary sources defined as major by the Act. Permits issued under these programs must set out standards and conditions that cover all the applicable requirements of the Act for each emission unit at each individual stationary source. In addition to requiring that states develop operating permit programs, Congress is also requiring that states develop permit fee programs to pay for the cost of the programs.

Notices of Intended Regulatory Action

Section 502 (b)(3) sets out the minimum elements that must be included in each permit fee program. The owner or operator of all sources subject to the requirement to obtain a permit must pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V, including the costs of the small business technical assistance program. Section 502 (b)(3)(A) specifies what is meant by reasonable costs, as follows:

1. Reviewing and acting upon any application for a permit.
2. Implementing and enforcing the terms and conditions of the permit, but not including any court costs or other costs associated with any enforcement action.
3. Emissions and ambient monitoring.
4. Preparing generally applicable regulations or guidance.
5. Modeling, analyses, and demonstrations.
6. Preparing inventories and tracking emissions.

Section 502 (b)(3)(B) specifies the requirements for the total amount of fees to be collected by the state permitting authority, as follows:

1. The state must demonstrate that, except as otherwise provided, the program will collect in the aggregate from all sources subject to the program an amount not less than \$25 per ton of each regulated pollutant, or such other amount as the EPA administrator may determine adequately reflects the reasonable costs of the permit program.
2. "Regulated pollutant" means (a) a volatile organic compound; (b) each pollutant regulated under Section 111 or 112 of the Act; and (c) each pollutant for which a national primary ambient air quality standard has been promulgated (except carbon monoxide).
3. In determining the amount to be collected, the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that pollutant.
4. The requirements of paragraph 1 above will not apply if the permitting authority can demonstrate that collecting an amount less than \$25 per ton of each regulated pollutant will meet the requirements of 502 (b)(3)(A).
5. The fee calculated under paragraph 1 above shall be increased consistent with the need to cover the reasonable costs authorized by 502 (b)(3)(A) in each year beginning after the year of the enactment of the

Act by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989.

Section 502 (b)(3)(C) specifies the requirements of a permit fee program if the EPA administrator finds that the fee provisions of a state program are inadequate or if the Title V operating permit program itself is inadequate and EPA has to administer the fee program itself.

Section 507 (f) concerning fees and the Small Business Technical Assistance Program specifies that the state may reduce any fee required under Title V to take into account the financial resources of small business stationary sources.

Section 408 (c)(4) of Title IV concerning sources of acid deposition states that Phase I affected units shall not be required to pay permit fees during the years 1995 through 1999.

The Department has the statutory authority under state law to develop a Title V permit fee program. Section 10.1-1322 of the Air Pollution Control Law of Virginia specifies the supplementary requirements for developing the Title V fee program in Virginia.

Section 10.1-1322 B specifies that the board may require the payment and collection of annual permit program fees for air pollution sources. The law directs that the fees must be based on actual emissions of each regulated pollutant as defined in Section 502 of the Act, in tons per year. The law stipulates that the regulation cannot charge for emissions in excess of 4,000 tons per year of each pollutant for each source. The law restricts the program to obtaining a base year amount of \$25 per ton, using 1990 as the base year. It does allow annual adjustments of this amount using the Consumer Price Index, as directed in Section 502 (b)(3)(B). The fees obtained are to approximate the direct and indirect costs of the program as directed in Section 502 (b)(3)(A).

When adopting regulations for these fees, the board is directed to take into account permit fees charged in neighboring states so that existing or prospective industry in Virginia will not be placed at an economic disadvantage.

Statutory Authority: §§ 10.1-1308 and 10.1-1322 of the Code of Virginia.

Written comments may be submitted until November 20, 1992, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Kathleen Sands, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone 225-2722.

Notices of Intended Regulatory Action

BOARD FOR COSMETOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider promulgating regulations entitled: **Virginia Board for Cosmetology Esthetician/Skin Care Regulations**. The purpose of the proposed action is to regulate the practice of invasive skin care performed by estheticians who administer cosmetic treatments.

Statutory Authority: § 54.1-1202 of the Code of Virginia.

Written comments may be submitted until December 5, 1992.

Contact: Demetra Kontos, Assistant Director, Cosmetology Board, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8509.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider promulgating regulations entitled: **Resident Trainee Program for Funeral Services**. The purpose of the proposed action is to limit the length of time that a trainee can remain in the program.

Statutory Authority: § 54.1-2817 of the Code of Virginia.

Written comments may be submitted until October 31, 1992.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804)662-9907.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Medical Care Services**. The purpose of the proposed action is to revise current regulations to more closely conform to eligibility guidelines of other state agencies.

Statutory Authority: § 32.1-11 of the Code of Virginia.

Written comments may be submitted until October 9, 1992.

Contact: Dave Burkett, Health Administrator, P.O. Box 2448, Room 237, Richmond, VA 23218, telephone (804) 371-4089.

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 355-18-000. Waterworks Regulations - Synthetic Organic/Inorganic Chemicals**. The purpose of the proposed action is to make appropriate amendments to make state regulations as stringent as federal Phase V (synthetic organic chemicals and inorganic chemicals).

Statutory Authority: § 32.1-170 of the Code of Virginia.

Written comments may be submitted until October 23, 1992.

Contact: Allen R. Hammer, P.E., Division Director, Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-5566.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture**. The purpose of the proposed amendments is to amend §§ 4.1 B 4 and 4.1 C 4 to delete ambiguous wording and establish a fee to set for the United States Medical Licensing Examination in § 7.1 A 1.

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

Written comments may be submitted until October 8, 1992, to Hilary H. Connor, M.D., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005.

Contact: Eugenia K. Dorson, Deputy Executive Director for Licensing, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9923.

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

Notices of Intended Regulatory Action

intends to consider amending regulations entitled: **VR 470-06-01. Rules and Regulations to Assure the Protection of the Subjects of Human Research.** The purpose of the proposed amendments is to amend the existing regulations to reflect changes in the Code of Virginia and to bring the regulations into compliance with federal guidelines.

Statutory Authority: §§ 37.1-10 and 37.1-234 of the Code of Virginia.

Written comments may be submitted until October 7, 1992, to Randy Koch, Director of Research and Evaluation, DMHMRSAS, P.O. Box 1797, Richmond, Virginia 23214.

Contact: Rubyjean Gould, Director of Administrative Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Board of Pharmacy.** The purpose of the proposed action is to conduct the biennial review of existing regulations.

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

Written comments may be submitted until October 7, 1992.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The purpose of the proposed action is to conduct the biennial review of existing regulations.

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

Written comments may be submitted until October 7, 1992.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **VR 615-01-47. Disability Advocacy Project.** The purpose of the proposed regulation is to adopt for statewide implementation the Disability Advocacy Project included in emergency regulation VR 615-01-47.

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

Written comments may be submitted until November 4, 1992, to Ms. Diana Salvatore, Program Manager, Medical Assistance Unit, Division of Benefit Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Virginia 23229.

Contact: Peggy Friedenberg, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-0899, telephone (804) 662-9217.

Notice of Intended Regulatory Action.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-34-01. Voluntary Registration of Small Family Day Care Homes - Requirements for Contracting Organizations.** The purpose of the proposed action is to set forth the requirements for organizations that shall administer the voluntary registration program for small family day care homes on behalf of the Commissioner of Social Services.

Statutory Authority: §§ 63.1-25 and 63.1-196.04 C of the Code of Virginia.

Written comments may be submitted until October 21, 1992.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9217.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-35-01. Voluntary Registration of Small Family Day Care Homes - Requirements for Providers.** The purpose of the proposed action is to set forth registration procedures and general information for providers operating small family day care homes who voluntarily register.

Statutory Authority: §§ 63.1-25 and 63.1-196.04 C of the Code of Virginia.

Written comments may be submitted until October 21, 1992.

Contact: Peggy Friedenberg, Legislative Analyst,

Notices of Intended Regulatory Action

Department of Social Services, 8007 Discovery Dr.,
Richmond, VA 23229, telephone (804) 662-9217.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to conduct the triennial review of water quality standards as required by federal and state law. As part of this triennial review, public meetings are being held to receive comments and suggestions which the State Water Control Board will consider in proposing specific changes in the standards that will be formally considered at public hearings during 1993.

The type of information which would help the board conduct this review includes information on the following Environmental Protection Agency requirements:

- information to update existing standards or to add new standards (especially for toxic pollutants),
- suggestions for a narrative biological criteria,
- evaluations of the 1986 Environmental Protection Agency's bacteria and dissolved oxygen criteria, and
- provisions to ensure that standards apply to wetlands and appropriate numeric criteria for wetlands.

In addition, staff will be considering nominations previously received for water bodies to be included as exceptional waters under VR 680-21-01.3 C as well as seeking additional recommendations for this category. The nominations received thus far include the Rappahannock River from the headwaters to its confluence with Carter's Run, the Rappahannock River from the head of Kelly's Ford rapids to its confluence with Mott's Run and the Maury River from Goshen to Rockbridge Baths.

Finally, any other information which may indicate that modifications are necessary in other sections of the regulation will also be considered.

Any amendments to the water quality standards proposed as a result of this triennial review have the potential to impact every VPDES permit holder in the Commonwealth of Virginia. The impact on an individual VPDES permit hold would range from additional monitoring costs through upgrades to existing wastewater treatment facilities.

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

Applicable laws and regulations include § 303(c)(2)(B) and § 307(a) of the Clean Water Act, State Water Control Law, VR 680-21-00 (Water Quality Standards Regulation) and VR 680-14-01 (Permit Regulation).

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

Written comments may be submitted until November 16, 1992.

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5091.

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.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

Title of Regulation: VR 627-02-01. Board for Professional Soil Scientists Regulations.

Statutory Authority: § 54.1-201 and Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia.

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

Summary:

The proposed regulations apply directly to 71 certified soil scientists in Virginia. The substantive changes in the regulations are proposed increases in all fees to assure the board's compliance with the requirements of § 54.1-113 of the Code of Virginia. Further, the proposed regulations add language regarding waiver from examination through experience to reflect the legislative amendments of the 1991 General Assembly Session. The last addition clarifies the core course requirements needed to meet academic qualifications.

VR 627-01-01. Board for Professional Soil Scientists Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

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

"Board" means the Board for Professional Soil Scientists as established by Chapter 22, Title 54.1 of the Code of Virginia.

"Field study" means the investigation of a site to secure soils information by means of landscape analysis, soil borings, excavations or test pits which are located on a base map or other documents (e.g., aerial photographs, topographic maps, scaled site plans, subdivision plans, or narrative description of the location).

"Practice of soil evaluation" means the evaluation of soil by accepted principles and methods including, but not limited to, observation, investigation, and consultation on measured, observed and inferred soils and their properties; analysis of the effects of these properties on the use and management of various kinds of soil; and preparation of soil descriptions, maps, reports and interpretive drawings.

"Soil" means the groups of natural bodies occupying the unconsolidated portion of the earth's surface which are capable of supporting plant life and have properties caused by the combined effects, as modified by topography and time, of climate and living organisms upon parent materials.

"Soil evaluation" means plotting soil boundaries, describing and evaluating the kinds of soil and predicting their suitability for and response to various uses.

"Soil map" means a map showing distribution of soil types or other soil mapping units in relation to the prominent landforms and cultural features of the earth surface.

"Soil science" means the science dealing with the physical, chemical, mineralogical, and biological properties of soils as natural bodies.

"Soil scientist" means a person having special knowledge of soil science and the methods and principals of soil evaluation as acquired by education and experience in the formation, description and mapping of soils.

"Soil survey" means a systematic field investigation of the survey area that provides a soil evaluation and a system of uniform definitions of soil characteristics for all the different kinds of soil found within the study area, all of which are incorporated into a soil report which includes a soil map.

§ 1.2. Procedural requirements.

A. Each applicant is responsible for obtaining a current application package. All correspondence and requests for applications should be directed to:

Assistant Director
Board for Professional Soil Scientists
Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230
(804) 367-8514 367-8595
1-800-552-3016

B. Fully documented applications must be submitted with the appropriate fee(s) by applicants seeking consideration for certification no later than ~~120~~ 90 days prior to the scheduled examination. The date the completely documented application and fees are received in the board's office shall determine if the application meets the deadline set by the board. Incomplete applications will be

Proposed Regulations

returned to the applicant.

C. Applicants who have been found ineligible for any reason, may request further consideration by submitting in writing evidence of additional qualifications, training or experience. No additional fee will be required provided the requirements for certification are met within a period of three years from the date the original application is received by the Department of Commerce.

D. Members of the board may not serve as personal references, but they may be listed as persons who have supervised the work of the applicant.

E. The board may make further inquiries and investigations with respect to the qualifications of the applicant and all references, etc. to confirm or amplify information supplied.

F. Failure of an applicant to comply with a written request from the board for additional evidence or information within 60 days of receiving such notice, except in such instances where the board has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

G. For the purpose of determining eligibility or requirements for examination or qualification for practice, a board may require a personal interview with the applicant.

H. Notice of examination.

Each candidate will be sent a written notice of the time and place of any examination for which the candidate is eligible. Each candidate shall promptly notify the board as to whether the candidate intends to appear for the examination and pay the examination fee as instructed. Failure to so notify the board may result in loss of eligibility for that particular examination. Each examination fee shall be applied to the next scheduled examination and shall be forfeited for failure to notify the board or for failure to appear.

§ 1.3. Determining qualifications of applicants.

In determining the qualifications of an applicant for certification as a professional soil scientist, a majority vote of the board members who are soil scientists shall be required.

§ 1.4. Fees.

A. The following nonrefundable fees are required and shall not be prorated:

1. The application fee for certification shall be ~~\$125~~ \$150 .
2. The fee for renewal of certification shall be \$175.

3. The fee for taking the examination or reexamination for certification shall be ~~\$75~~ \$150 .

4. The penalty fee for late renewal or reinstatement shall be \$200.

B. Deadline for applications and examination fees.

Fully documented, completed applications must be submitted with the proper application fee and received in the board's office no later than ~~120~~ 90 days prior to the next scheduled exam. Examination and reexamination fees must be received in the board's office no later than ~~45~~ 30 days prior to the next scheduled examination.

§ 1.5. Applicability of certification program.

The Certification Program for Professional Soil Scientists set forth in Chapter 22 of Title 54.1 of the Code of Virginia and these regulations is voluntary and shall not be construed to prohibit:

1. The practice of soil evaluation by individuals who are not certified soil scientists as defined in this regulation;
2. The work of an employee or a subordinate of a certified soil scientist or of an individual who is practicing soil evaluation without being certified; or
3. The practice of any profession or occupation which is regulated by another regulatory board within the Department of Commerce.

PART II. ENTRY.

§ 2.1. Qualifications for certification.

Applicants for certification shall meet the education, eligibility, experience and examination requirements specified in Chapter 22 of Title 54.1 of the Code of Virginia.

§ 2.2. Qualifications for examination.

An applicant shall satisfy one of the following criteria in order to qualify for the examination:

1. Hold a bachelor's degree from an accredited institution of higher education in a soils curriculum which has been approved by the board and have at least four years of experience in soil evaluation, the quality of which demonstrates to the board that the applicant is competent to practice as a professional soil scientist; or
2. Hold a bachelor's degree in one of the natural sciences and have at least five years of experience in soil evaluation, the quality of which demonstrates to the board that the applicant is competent to practice

as a professional soil scientist; or

3. Have a record of at least eight years of experience in soil evaluation, the quality of which demonstrates to the board that the applicant is competent to practice as a soil scientist; or

4. Have at least four years of experience in soil science research or as a teacher of soils curriculum in an accredited institution of higher education which offers an approved four-year program in soils and at least two years of soil evaluation experience, the quality of which demonstrates to the board that the applicant is competent to practice as a soil scientist.

§ 2.3. Waiver from examination through experience.

A. Any person certified, registered or licensed as a soil scientist in any jurisdiction of the United States may be granted a Virginia certificate without examination, provided that:

1. The applicant meets all the other requirements for certification in Virginia; and

2. The applicant holds an unexpired certificate or its equivalent issued to him on the basis of equivalent requirements for certification in Virginia, including a comparable examination, by a regulatory body of another state, territory or possession of the United States and is not the subject of any disciplinary proceeding before such regulatory body which could result in the suspension or revocation of his certificate, and such other regulatory body recognizes the certificates issued by this board.

B. Any person who can verify on the forms provided a record of at least 10 years of experience in soil evaluation, the quality of which demonstrates to the board the applicant is competent to practice as a professional soil scientist.

§ 2.4. Qualifying experience in soil evaluation.

A. An applicant must demonstrate at least one half of the required experience in one or all of the following areas:

1. Soil mapping. Compiling of soil maps as a part of a soil survey with a formal mapping legend under the direct guidance of an experienced party leader supervisor. Acceptable maps shall be maps in a published report, a report scheduled to be published or of a publishable quality; or

2. Soil evaluation. Conducting soil evaluation usually from existing soil data for a specific land use, such as septic tank drain fields, sanitary landfill sites, forestry production, or individual farm mapping for agriculture production. The experience shall be supervised by an individual with a minimum of a year's more

experience than the applicant. The finished product shall have been submitted to a government agency (e.g., Health Department, Environmental Protection Agency, Environmental Impact Studies, Water Control Board, local planning commission); or

3. Field studies. Conducting detailed field studies which have been done under the supervision of an individual with a minimum of a year's more experience than the applicant. The field study shall have resulted in a soil evaluation report that was accepted by the client or agency.

B. The remaining required experience may be fulfilled in one or more of the following areas:

1. Consulting (public/private). Assembling or compiling soil information either with existing data or field studies, and evaluating data for a specific land use. The work may be either independently done or done under supervision. The written report shall have been submitted to the client or agency.

2. Soil mapping, soil evaluation, or field studies, as described above, which have been done independently or under supervision.

3. Education. Each year of full-time undergraduate study in a soils curriculum or related natural science may count as one-half year of experience up to a maximum of two years. Each year of full-time graduate study in a soils curriculum may count as one year of experience up to a maximum of two years. With a passing grade, 32 semester credit hours or 48 quarter credit hours is considered to be one year. No credit used as education credit may also be used as experience credit.

§ 2.4. Certification by reciprocity.

Any person certified, registered or licensed as a soil scientist in any jurisdiction of the United States may be granted a Virginia certificate without written examination, provided that:

1. The applicant meets all the other requirements for certification in Virginia; and

2. The applicant holds an unexpired certificate or its equivalent issued to him on the basis of equivalent requirements for certification in Virginia, including a comparable examination, by a regulatory body of another state, territory or possession of the United States and is not the subject of any disciplinary proceeding before such regulatory body which could result in the suspension or revocation of his certificate, and such other regulatory body recognizes the certificates issued by this board.

§ 2.5. Examination.

Proposed Regulations

A. A board-approved examination shall be administered at least once a year, at a time designated by the board.

B. An applicant must meet all eligibility requirements as of the date the application is filed with the board.

C. A candidate who is unable to take the examination at the time scheduled must notify the board in writing prior to the date of the examination; such a candidate will be rescheduled for the next examination without additional fee. Failure to so notify the board will result in forfeiture of the examination or reexamination fee.

D. A candidate who has not appeared for an examination after the first written notice regardless of reasons, will not be sent another examination notice until the candidate submits a written request to be rescheduled.

E. A candidate who does not appear for an examination within two years of approval will be ineligible to sit for an examination. Individuals wishing to sit for an examination will be required to submit a new application with fee in accordance with these regulations.

F. Candidates will be notified of passing or failing the examination. No scores will be reported to candidates. Only the board and its staff shall have access to examination papers, scores and answer sheets.

G. Upon payment of the reexamination fee, a candidate who is unsuccessful in passing an examination will be allowed to retake any examination(s) given within two years of the date of notification of initial unsuccessful examination results. After the two-year period has elapsed, an applicant will be required to submit a new application with fee in accordance with these regulations in order to take an examination.

§ 2.6. Core course requirements.

At least 15 semester hours selected from the identified courses below or the equivalent are required for course work or a degree core to be considered a soil science degree or a soil science related degree.

*Intro to Crop and Soil Environmental Sciences
Soil Evaluation
Soils
Soils Lab
Man and Environment
Soil Survey/Taxonomy
Soil Microbiology
Soil Resource Management
Soil Chemistry
Topics in Soil Genesis
Soil Seminar
Special Studies (Soils Based)
Field Studies (Soils Based)
Soils and Land Use
Soil Physical and Colloidal Chemistry
Soil - Plant Relations*

*Soil - Plant - Animal Interrelationships in Grasslands
Aluminum Chemistry in the Soil System
Soil Physics or Physical Properties
Soil Genesis/Classification
Soil Fertility/Management
Soil Fertility/Management Lab
Soil/Groundwater Pollution
Soils for Waste Disposal
Soil Microbiology Lab
Forest Soils/Hydrology
Clay Mineralogy
Soil Interpretations
Advanced Concepts in Soil Genesis
Independent Studies (Soil Based)
Soil Biochemistry
Soil Geomorphology*

The applicant must demonstrate course equivalency.

PART III. RENEWAL OF CERTIFICATE.

§ 3.1. Expiration.

Certificates issued by the board shall expire on June 30 of each odd-numbered year following the date of issuance. Certificate holders shall be notified by mail of the fee and the procedure for renewal at least 45 days before the date the certificate expires. Certificate holders must submit the renewal notice and appropriate fee before the certificate expires.

§ 3.2. Renewal.

A. If the renewal fee is not received by the board within 30 calendar days following the expiration date noted on the certificate, a penalty fee of \$200 shall be required in addition to the regular renewal fee. No certificate may be renewed more than six months following the date of expiration.

B. Failure to receive written notice from the Department of Commerce does not relieve the certificate holder from the requirement to renew the certificate. If the certificate holder fails to receive the renewal notice, the certificate holder may submit a copy of the certificate with the required fee in lieu of the renewal notice.

C. The date a fee is received by the Department of Commerce or its agent will be used to determine whether a penalty fee or the requirement for reinstatement or reapplication is applicable.

D. Suspended certificates are not renewable until reinstated by the board.

E. A revoked certificate cannot be renewed.

§ 3.3. Reinstatement.

A. If the certificate holder fails to renew the certificate

within six months following his expiration date, the certificate holder will be required to apply for certificate reinstatement. The applicant will be required to show the board that he meets the eligibility standards for certification as a professional soil scientist. The board may also require reexamination. The application fee for reinstatement shall be an amount equal to the regular renewal fee plus the \$200 penalty fee.

B. After 36 months from the date of expiration, the applicant must apply as a new applicant, meet all current education and experience requirements and pass the current examination.

§ 3.4. Reissuance of certificate.

An individual whose certificate has been revoked must file a new application and obtain approval of the board to regain certification. Reexamination shall be required.

PART IV. STANDARDS OF PRACTICE AND CONDUCT.

§ 4.1. Professional conduct.

A certified professional soil scientist:

1. Shall not submit any false statements, make any misrepresentations or fail to disclose any facts requested concerning any application for certification.
2. Shall not engage in any fraud or deceit or misrepresentation in advertising, in soliciting or in providing professional services.
3. Shall not knowingly sign, stamp, or seal any plans, drawings, blueprints, surveys, reports, specifications, maps or other documents not prepared or reviewed and approved by the certificate holder.
4. Shall not knowingly represent a client or employer on a project on which he represents or has represented another client or employer without making full disclosure thereof.
5. Shall express a professional opinion only when it is founded on adequate knowledge of established facts at issue and based on a background of technical competence in the subject matter.
6. Shall not knowingly misrepresent factual information in expressing a professional opinion.
7. Shall immediately notify the client or employer and the appropriate regulatory agency if his professional judgment is overruled and not adhered to in the *use of all reasonable means necessary to advise appropriate parties of any circumstances of a substantial threat to the public health, safety, or welfare.*

8. Shall exercise reasonable care when rendering professional services and shall apply the technical knowledge, skill and terminology ordinarily applied by practicing soil scientists.

§ 4.2. Grounds for suspensions, revocation, denial of application, renewal or other disciplinary action.

A. The board has the power to fine any certificate holder or to revoke or suspend any certificate at any time after a hearing conducted pursuant to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, when the person is found to have:

1. Committed fraud or deceit in obtaining or attempting to obtain certification.
2. Committed any violation, or cooperated with others in violating § 4.1. of the Standards of Practice and Conduct, or any other regulations of the board, or governing statutes of the board.
3. Performed any act in the practice of his profession likely to deceive, defraud or harm the public.
4. Committed any act of gross negligence, incompetence, or misconduct in the practice of soil science.
5. Been convicted of a felony under the terms specified in § 54.1-204 of the Code of Virginia.

B. The board may, in its discretion, refuse to grant, renew or reinstate a certificate of any person for any of the reasons specified in subsection A of this section.

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 POST OFFICE BOX 11066
 RICHMOND, VIRGINIA 23230-1066

For Official Use Only

Lic. Number _____
 Date _____
 Code _____

APPLICATION FOR CERTIFICATION AS A
 VIRGINIA CERTIFIED PROFESSIONAL SOIL SCIENTIST

A. GENERAL INFORMATION

NAME IN FULL: _____ SSN: _____

FIRM NAME: _____

BUSINESS ADDRESS: STREET: _____
 CITY: _____ STATE: _____ ZIP: _____

PHONE NUMBER: _____

STREET: _____

RESIDENCE ADDRESS: CITY: _____ STATE: _____ ZIP: _____

PHONE NUMBER: _____

ADDRESS FOR CORRESPONDENCE RESIDENCE BUSINESS

CITIZENSHIP: BIRTH NATURALIZED

BIRTHDATE: _____ PLACE: _____

B. EDUCATION: (List in chronological order the name and location of institution, beyond high school, time attended, year of graduation.)

NAME OF INSTITUTION	YEARS ATTENDED	DEGREE RECEIVED	GRADUATE WORK COMPLETED	MAJOR

NOTE: Applicant must use this form, a resume cannot be substituted.

Effective:

DOC Form SS-2

C. TRAINING AND EXPERIENCE: Record your professional practice in sequence, starting with your most recent position. Attach an additional sheet if needed.

(1) NAME AND ADDRESS OF EMPLOYER. POSITION TITLE & BRIEF JOB DESCRIPTION	(2) DATE MONTH/YEAR		(3) TIME SPENT YEARS AND MONTHS					(4) SIGNATURE OF THE PERSON OR SUPERVISOR. INCLUDE TYPEWRITTEN NAME, ADDRESS, PHONE NUMBER.
	FROM	TO	Detailed Soil Mapping	Soil Evaluation	Field Study	Consulting		

1. Are you currently registered/certified/licensed as a soil scientist in any other jurisdiction? (yes or no) _____
If yes, what state? _____
2. In which state(s) was your registration/certification/license granted on the basis of a written examination?
(Please have the state involved submit a verification of certification.) _____
3. Has any state denied you registration/certification/license, revoked or declined same? _____
If yes, please explain on a separate sheet.
4. Have you ever been convicted of a felony or misdemeanor? (other than traffic infractions) (yes or no) _____ If yes, please explain on a separate sheet.
5. How do you wish to qualify for certification?
Reciprocity _____ Waiver _____ Examination _____
6. REFERENCES. At least one reference must be from an eligible soil scientist or certified soil scientist. A total of three references are required.

NAME, ADDRESS AND PHONE NUMBER	CURRENTLY CERTIFIED	
	yes	no
A. _____	_____	_____
B. _____	_____	_____
C. _____	_____	_____

PLEASE SEND THE PROVIDED REFERENCE FORMS TO THE INDIVIDUALS LISTED ABOVE.

D. AFFIDAVIT

State of _____ County or City of _____

The undersigned being duly sworn says that he is the person who executed this application, that the statements herein contained are true, that he has not withheld or suppressed any information that might affect this application, and that he has read and understands this affidavit.

Signature of Applicant: _____

Subscribed and sworn to before me this _____ day of _____, 19____

Signature of Notary Public: _____

My commission expires: _____

E. BOARD MEMBER REVIEW

REASONS FOR REJECTION OF CERTIFICATION BY RECIPROCITY

Board Member Initials and Date	Reason(s) for Rejection
_____	_____
_____	_____
_____	_____

APPROVED FOR WAIVER FROM EXAMINATION _____
Board initials & dates _____

APPROVED FOR RECIPROCITY WITH _____
Board initials & dates _____

REASONS FOR REJECTION FOR EXAMINATION:

Board Member Initials and Date	Reason(s) for Rejection
_____	_____
_____	_____
_____	_____
_____	_____

APPROVED FOR EXAMINATION _____
Board initials and dates _____

WAIVED FROM EXAMINATION _____
Board initials and dates _____

EXAMINATION RESULTS:

DATE	I.D. NUMBER	CUT OFF	PASSED	FAILED
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

COMMONWEALTH OF VIRGINIA
 BOARD FOR PROFESSIONAL SOIL SCIENTISTS
 APPLICATION FOR CERTIFICATION AS A
 VIRGINIA CERTIFIED PROFESSIONAL SOIL SCIENTIST

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

INSTRUCTIONS

APPLICANT CHECK-OFF FORM

Dear Applicant:

Please review your application and qualifications prior to making application, since your application fee is non-refundable. The following check-off sheet is provided for your convenience (not to be returned to the Board) as your application package cannot be reviewed by the Board without the appropriate information.

Prior to mailing my application package to the Board, I have made certain that the following items were complete and appropriate:

- _____ 1. Application fee of \$175/00\$150.00 made payable to the Treasurer of Virginia.
- _____ 2. Completed and notarized application form.
- _____ 3. Verification of my registration if registered in another state.
- _____ 4. DOC Form SS-4 and transcripts reflecting all college course work and verification of my degree(s).
- _____ 5. All experience listed under Item C of the application verified.
- _____ 6. One reference from an eligible or certified soil scientist and two references from other professional associates or acquaintances.

Effective:

1. All applicants must have a thorough knowledge of the Rules and Regulations of the Board.
2. Forms shall be typewritten or printed legibly in their entirety except for signatures. The applicant shall assume full responsibility for filing all required documentation, references, and verifications.
3. RECIPROcity: If you are registered or certified in another jurisdiction, list all states in Item 1 (DOC Form SS-2). List all states in Item 2 in which you took a written examination. Have DOC Form SS-3 completed by each state in which you are registered. You should enclose a stamped, addressed envelope with the DOC Form SS-3 for return directly to this Board.
4. EDUCATION: Your degree(s) must be verified by each school attended (DOC Form SS-4). A transcript of all college courses for which credit is sought must also be submitted.
5. REFERENCES: One copy of DOC Form SS-5 shall be supplied to each of the references listed in Item 5 (DOC Form SS-2). All references must be professional associates or acquaintances. One reference must be from an eligible or certified soil scientist. All references must have known the applicant for at least one year. All completed references must be returned to the applicant in a sealed envelope signed by the person supplying the reference, or may be returned directly to the Board. References must be submitted to the Board in the original sealed envelope. Persons verifying experience in Item C (DOC Form SS-2) cannot also supply personal references.
6. TRAINING AND EXPERIENCE RECORD: Under Item C (DOC Form SS-2) record all training and experience. USE SEPARATE SHEETS IF NECESSARY. Qualifying experience must meet the requirements of §2.3 of the Regulations. List your experience in chronological order with the most recent engagement first. Make concise and explicit statements giving a description of your tasks, duties and nature of work performed for each period of employment. The total time employed in Column (2) must be broken down into the categories in Column (3). Total time in Column (2) must equal total time in Column (3). Each period of employment must be verified by a signature in Column (4). This includes periods of self employment which may be verified by an associate or client.
7. FEES: Each application must be accompanied by an application fee. Exam fees should not be sent at this time. Checks must be made payable to the Treasurer of Virginia and returned in the enclosed envelope. All fees are nonrefundable.
8. All supplementary papers accompanying the application must be identified with the applicant's name.
9. EXAMINATION: Enclosed in this application package is an examination schedule. Completed applications must be received in this office at least 120 days prior to this exam. You will be notified within 60 days as to whether you have been approved for the exam. Should you have further questions, please call the Board office.

APPLICATIONS NOT COMPLETED IN ACCORDANCE WITH THESE INSTRUCTIONS
 WILL BE PROMPTLY RETURNED TO THE APPLICANT

Effective:

DOC Form SS-1

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

VERIFICATION OF DEGREE GRANTED

(Applicant shall complete the upper portion of this form.)

Name in full _____
Residence Address _____
Business Address _____
Birth Date _____ Social Security Number _____
College or University Attended _____
Applicant's Signature _____

(After completion of above, applicant shall send this form to the college or university from which he/she obtained a degree. Please request that the following certificate be completed and that a transcript and this form be returned directly to the applicant.)

C E R T I F I C A T E

I hereby certify that the above named applicant has been graduated from this institution with a degree of:

_____ Major _____
on _____

(College Seal) Signature _____
Official Position _____
Institution _____
Date _____

Effective:

BOC Form 33-4

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

VERIFICATION OF DEGREE GRANTED

(Applicant shall complete the upper portion of this form.)

Name in full _____
Residence Address _____
Business Address _____
Birth Date _____ Social Security Number _____
College or University Attended _____
Applicant's Signature _____

(After completion of above, applicant shall send this form to the college or university from which he/she obtained a degree. Please request that the following certificate be completed and that a transcript and this form be returned directly to the applicant.)

C E R T I F I C A T E

I hereby certify that the above named applicant has been graduated from this institution with a degree of:

_____ Major _____
on _____

(College Seal) Signature _____
Official Position _____
Institution _____
Date _____

Effective:

BOC Form 33-4

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-1066

(To be completed by applicant):

Name: _____
Last First Middle Address:

To the Referencer:

As an eligible or certified soil scientist or other professional associate, you have been named as a reference on the application of the individual listed above. The Board for Professional Soil Scientists requests that you provide frank answers to the following questions with regard to the character of the applicant in order that the Board might better assess his/her qualifications.

Please return the completed form to the applicant in a sealed envelope with your signature on the outside in order that he/she may include it with the application to the Board, or you may return it directly to the Board at the above address.

1. Applicant's Name _____ Approx. Age _____
2. Your business/personal relationship to the applicant _____
3. Number of years you have known him/her _____
4. Are you aware of anything that the Board should be aware of which may make the applicant ineligible for certification? _____ If yes, explain on the back of this page.
5. How long has he/she been engaged in soil science work? _____
6. In your professional opinion, has this applicant demonstrated competence and knowledge in the soil science profession? _____ Please explain _____
7. Your comments and recommendations _____

Signature _____ Occupation _____
Name _____ Reg. No. _____
Address _____ State _____ Expire Date _____
Date _____ (SEAL)

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-1066

(To be completed by applicant):

Name: _____
Last First Middle Address:

To the Referencer:

As an eligible or certified soil scientist or other professional associate, you have been named as a reference on the application of the individual listed above. The Board for Professional Soil Scientists requests that you provide frank answers to the following questions with regard to the character of the applicant in order that the Board might better assess his/her qualifications.

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3. Number of years you have known him/her _____
4. Are you aware of anything that the Board should be aware of which may make the applicant ineligible for certification? _____ If yes, explain on the back of this page.
5. How long has he/she been engaged in soil science work? _____
6. In your professional opinion, has this applicant demonstrated competence and knowledge in the soil science profession? _____ Please explain _____
7. Your comments and recommendations _____

Signature _____ Occupation _____
Name _____ Reg. No. _____
Address _____ State _____ Expire Date _____
Date _____ (SEAL)

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-1066

(To be completed by applicant):

Name: Last First Middle Address:

To the Referencer:

As an eligible or certified soil scientist or other professional associate, you have been named as a reference on the application of the individual listed above. The Board for Professional Soil Scientists requests that you provide frank answers to the following questions with regard to the character of the applicant in order that the Board might better assess his/her qualifications.

Please return the completed form to the applicant in a sealed envelope with your signature on the outside in order that he/she may include it with the application to the Board, or you may return it directly to the Board at the above address.

- 1. Applicant's Name Approx. Age
2. Your business/personal relationship to the applicant
3. Number of years you have known him/her
4. Are you aware of anything that the Board should be aware of which may make the applicant ineligible for certification? If yes, explain on the back of this page.
5. How long has he/she been engaged in soil science work?
6. In your professional opinion, has this applicant demonstrated competence and knowledge in the soil science profession? Please explain
7. Your comments and recommendations

Signature Occupation
Name Reg. No.
Address State Expire Date
Date (SEAL)

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230

VERIFICATION OF REGISTRATION

(The applicant should complete this portion.)

TO:

Please provide verification on the following individual:

Applicant's Name Soc. Sec. No.
Applicant's Address

This portion should be completed by the State Board listed.

I. The above named person was registered as:

Certificate No. Date License Issued Expiration Date
Soil Scientist

II. Minimum Requirements were:

- A. Years of education, years of experience.
B. Written Examination

Please specify:

- 1. Name of examination
2. Date of examination
3. Number of hours
4. Score
5. Cut-Off score
Cut-off score based on Group Data
National Data or Other (specify)

- C. Oral Examination. Hours.
D. Reciprocity with
E. Other: Please give details below:
F. Is the applicant in good standing?

III. By: (BOARD SEAL)
Title:
Date:

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

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 Safety and Health Codes 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 425-01-74. Regulation Concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permit Fees.

Statutory Authority: §§ 40.1-22(5) and 40.1-51.20 of the Code of Virginia.

Effective Date: November 15, 1992.

Summary:

The amendment to this regulation was developed by the department in response to changes in Titles 40.1 and 54.1 of the Code of Virginia during the 1992 session of the General Assembly. These changes (i) update asbestos definitions to conform with federal and industry standards to ensure regulatory consistency with the Code, and (ii) transfer some regulatory and enforcement authority from the Department of Commerce to the Department of Labor and Industry.

VR 425-01-74. Regulation Concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permit Fees.

§ 1. Definitions.

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

"Activity" means from the set-up of negative air containment through the breakdown of that containment. Work within a single structure or building shall be considered as one "activity" so long as such work is not interrupted except for weekends, holidays, or delays due to inclement weather. Where containment is not required, all work within single structure or building shall be considered as one "activity."

"Asbestos" means any material containing more than 1.0% asbestos by weight, which is friable or which has a reasonable probability of becoming friable in the course of ordinary or anticipated building use area as determined by microscopy.

"Asbestos contractor's license" means an authorization issued by the Department of Commerce permitting a person to enter into contracts for a project to install, remove, or encapsulate to perform an asbestos abatement project.

"Asbestos project" means an activity involving job set-up for containment, removal or , encapsulation of asbestos or involving the installation, removal, or encapsulation of , enclosure, encasement, renovation, repair, demolition, construction or alteration of an asbestos-containing roofing, flooring, or siding material.

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.

"Building" means a combination of any materials, whether portable or fixed including part or parts and fixed equipment thereof, that forms a structure for use or occupancy by persons or property.

"Commissioner" means the Commissioner of Labor and Industry.

"Construction" means all the on-site work done in building or altering structures from land clearance through completion, including excavation, erection, and the assembly and installation of components and equipment.

"Department" means the Department of Labor and Industry.

"Friable" means material which is capable of being crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit fibers into the air.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, or any other individual or entity.

"Residential buildings" means site-built homes, modular homes, condominium units, mobile homes, manufactured housing, and duplexes, or other multi-unit dwelling consisting of four units or less which are currently in use or intended for use only for residential purposes.

Demolitions of any of the above structures which are to be replaced by other than a residential building shall not fall within this definition.

"RFS contractor's license" means an authorization issued by the Department of Commerce permitting a person to enter into contracts to ~~install, remove, or encapsulate~~ perform an asbestos abatement project on asbestos-containing roofing, flooring, and siding materials.

"Site" means a specific geographically contiguous area with defined limits owned by a single entity on which asbestos removal will occur.

"Structure" means an assembly of materials, or part or parts thereof, forming a construction.

§ 2. Authority and application.

A. This regulation is established in accordance with § 54.1-507 § 40.1-51.20 of the Code of Virginia.

B. This regulation shall apply to all licensed asbestos contractors or RFS contractors who engage in asbestos projects.

C. The application of this regulation to contractors who work on federal property will be decided by the department based on a review of the facts in each case. The contractor shall contact the department to determine the applicability of the regulations to a specific project.

D. This regulation shall not affect the reporting requirements under § 54.1-507 C § 40.1-51.20 C or any other notices or inspection requirements under any other provision of the Code of Virginia.

§ 3. Notification and permit fee.

A. Written notification of any asbestos project of 10 linear feet or more or 10 square feet or more shall be made to the department on a department form. Such notification shall be sent by facsimile transmission as set out in § 3 J, certified mail, or hand-delivered to the department. Notification shall be postmarked or made 20 days before the beginning of any asbestos project.

B. The department form shall include the following information:

1. Name, address, telephone number, and Virginia asbestos contractor's license number of persons intending to engage in an asbestos project.
2. Name, address, and telephone number of facility owner or operator.
3. Type of notification; amended, emergency, renovation, or demolition.
4. Description of building, structure, facility,

installation, vehicle, or vessel to be demolished or renovated including present use, prior use or uses, age, and address.

5. Estimate of amount of friable asbestos and method of estimation.

6. Amount of the asbestos project fee submitted.

7. Schedule set-up date, removal date, and completion date of asbestos abatement work and times of removal.

8. Name and Virginia asbestos supervisor's license number of the project supervisor on site.

9. Name, address, telephone number, contact person, and landfill permit number of the waste disposal site where the asbestos containing material will be disposed.

10. Detailed description of the demolition or removal methods to be used.

11. Procedures and equipment to control emissions and protect public health during removal, transit, loading, and unloading. Including the monitoring plan.

12. Credit card number, expiration date, and signature of cardholder if a facsimile transmission is to be made pursuant to § 3 J.

13. Any other information requested on the department form.

C. An asbestos project permit fee shall be submitted with the completed project notification. The fee shall be in accordance with the following schedule unless a blanket notification is granted under subsection D of this section :

1. \$50 for each project equal to or greater than 10 linear feet or 10 square feet up to and including 260 linear feet or 160 square feet.

2. \$160 for each project of more than 260 linear feet or 160 square feet up to and including 2600 linear feet or 1600 square feet.

3. \$470 for each project or more than 2600 linear feet or 1600 square feet.

4. If the amount of asbestos is reported in both linear feet and square feet the amounts will be added and treated as if the total were all in square feet for the purposes of this subsection.

D. A blanket notification, valid for a period of one year, may be granted to a contractor who enters into a contract for asbestos removal or encapsulation on a specific site which is expected to last for one year or longer.

Final Regulations

1. The contractor shall submit the notification required in § 3 A to the department 20 days prior to the start of the requested blanket notification period. The notification submitted shall contain the following additional information:

a. The dates of work required by subdivision B 7 shall be every workday during the blanket notification period excluding weekends or state holidays.

b. The estimate of asbestos to be removed required under subdivision B 5 shall be signed by the owner and the owner's signature authenticated by a notary.

c. A copy of the contract shall be submitted with the notification.

2. The asbestos project permit fee shall be 0.5% of the contract price or \$470 whichever is greater. For contracts which require payments per square or linear foot of asbestos removed or encapsulated the contract price shall be the amount of asbestos estimated pursuant to subdivision B 5 times the per foot charge in the contract.

3. The contractor shall submit an amended notification at least one day prior to each time the contractor will not be onsite. The fee for each amended notification shall be \$15.

4. A contractor shall submit an amended notification whenever the actual amount of asbestos removed or encapsulated exceeds the original estimate. If the contract was for a fixed cost regardless of the amount of asbestos the amendment fee shall be \$15. If the contract was based on a price per square or linear foot the amendment fee shall be the difference between the actual amount removed and the estimated amount times the contract price per foot times 0.5% plus \$15.

5. Cancellation of a blanket notification may be made at any time by submitting a notarized notice of cancellation signed by the owner. The notice of cancellation must include the actual amount of asbestos removed and the actual amount of payments made under the contract. The refund shall be the difference between the original asbestos permit fee paid and either the actual amount of payments made under the contract times 0.5% or \$470 whichever is greater.

E. Notification of less than 20 days may be allowed in case of an emergency involving protection of life, health, or property, including but not limited to: leaking or ruptured pipes; accidentally damaged or fallen asbestos that could expose nonasbestos workers or the public; unplanned mechanical outages or repairs essential to a work process that require asbestos removal and could only be removed safely during the mechanical outage.

Notification and asbestos permit fee shall be submitted within five working days after the start of the emergency abatement. A description of the emergency situation shall be included when filing an emergency notification.

F. No notification shall be effective if an incomplete form is submitted, or if the proper permit fee is not enclosed with the completed form or if the credit card payment required for facsimile transmission in § 3 J is not approved.

G. On the basis of the information submitted in the asbestos notification, the department shall issue a permit to the contractor within seven working days of the receipt of a completed notification form and permit fee.

1. The permit shall be effective for the dates entered on the notification.

2. The permit or a copy of the permit shall be kept on site during work on the project.

H. Amended notifications may be submitted for modification of § 3 B 3 through 11. No amendments to § 3 B 1 or 2 shall be allowed. A copy of the original notification form with the amended items circled and the permit number entered shall be submitted at any time prior to the removal date on the original notification.

1. No amended notification shall be effective if any incomplete form is submitted or if the proper permit amendment fee is not enclosed with the completed notification.

2. A permit amendment fee shall be submitted with the amended notification form. The fee shall be in accordance with the following schedule:

a. For modification to §§ 3 B 3, 3 B 4, and 3 B 6 through 3 B 10 - \$15 ;

b. For modifications to § 3 B 5 ;

(1) the difference between the permit fee in § 3 C for the amended amount of asbestos and the original permit fee submitted, plus

(2) \$15.

3. Modifications to the completion date may be made at any time up to the completion date on the original notification.

4. If the amended notification is complete and the required fee is included, the department will issue an amended permit if necessary.

I. The department must be notified prior to any cancellation. A copy of the original notification form marked cancelled must be received no later than the scheduled removal date. Cancellation of a project may also

be done by facsimile transmission. Refunds of the asbestos project permit fee will be made for timely cancellations when a notarized notice of cancellation signed by the owner is submitted. \$15 for processing for the original notification, \$15 for each amendment filed and \$15 for processing the refund payment will be deducted from the refund payment.

J. Notification for any project, emergency notification, or amendment to notification may be done by facsimile transmission if the required fees are paid by credit card.

§ 4. Exemption.

No asbestos project fees will be required for residential buildings. Notification for asbestos projects in residential buildings shall otherwise be in accordance with applicable portions of this regulation.

ASBESTOS PERMIT APPLICATION AND NOTIFICATION
FOR DEMOLITION/RENOVATION

1. TYPE OF NOTIFICATION: ORIGINAL AMENDED CANCEL RE-NOTIFICATION

2. FACILITY INFORMATION: (facility owner, removal, demolition & other contractors)

OWNER:

ADDRESS:

CITY: STATE: ZIP CODE:

CONTACT: TELEPHONE #:

REMOVAL CONTRACTOR: LICENSE #:

FEDERAL EMPLOYER IDENTIFICATION NUMBER:

ADDRESS:

CITY: STATE: ZIP CODE:

CONTACT: TELEPHONE #:

DEMOLITION CONTRACTOR:

ADDRESS:

CITY: STATE: ZIP CODE:

CONTACT: TELEPHONE #:

OTHER OPERATOR:

ADDRESS:

CITY: STATE: ZIP CODE:

CONTACT: TELEPHONE #:

3. TYPE OF OPERATION DEMO RENO EMER.-RENO ENCAPSULATE

4. IS ASBESTOS PRESENT YES NO

5. FACILITY DESCRIPTION (INCLUDE BUILDING NAME, NUMBER AND FLOOR OR ROOM NUMBER)

BUILDING NAME:

STREET ADDRESS: COUNTY:

CITY: STATE: ZIP CODE:

SITE LOCATION:

BUILDING SIZE: # FLOORS: AGE IN YEARS:

PRESENT USE: PRIOR USE:

6. SCHEDULED DATES: REMOVAL START: / / FINISH: / /

REMOVAL TIMES: DAYS OF OPERATION (MONDAY - SUNDAY)

WORK SHIFT HOURS: (MONDAY - FRIDAY)

(SATURDAY - SUNDAY)

7. SCHEDULED DATES: DEMOLITION/RENOVATION START: / / FINISH: / /

** FOR DEPT. OF LABOR AND INDUSTRY USE ONLY **

DLI PERMIT NUMBER: NESHAP ID NUMBER:

APPROVING SIGNATURE: DATE:

ASBESTOS PERMIT APPLICATION AND NOTIFICATION
FOR DEMOLITION/RENOVATION

8. PROCEDURE, INCLUDING ANALYTICAL METHOD, USED TO DETECT THE PRESENCE OF ASBESTOS:

INSPECTOR: VA. CERTIFICATION #1: 25

9. APPROXIMATE AMOUNT OF ACM TO BE REMOVED:		10. APPROXIMATE AMOUNT OF ACM NOT TO BE REMOVED	
DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
PIPES	LNFT	FRIABLE:	LNFT
SURFACE AREA	SQFT	NON-FRIABLE:	SQFT
VOL. ACM OFF FACILITY COMPONENT	CUFT	CATEGORY I	SQFT
OTHER		CATEGORY II	SQFT

11. DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK, AND METHOD(S) TO BE USED:

12. DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS OF ASBESTOS AT THE DEMOLITION AND RENOVATION SITE:

13. WASTE TRANSPORTER #1: NAME:

ADDRESS:

CITY: STATE: ZIP CODE:

CONTACT: TELEPHONE:

WASTE TRANSPORTER #2: NAME:

ADDRESS:

CITY: STATE: ZIP CODE:

CONTACT: TELEPHONE:

14. WASTE DISPOSAL SITE: NAME:

LOCATION:

CITY: STATE: ZIP CODE:

TELEPHONE: LANDFILL PERMIT #:

15. IF DEMOLITION ORDERED BY A GOVERNMENT AGENCY, IDENTIFY THE AGENCY BELOW AND

NAME: TITLE:

AUTHORITY:

DATE OF ORDER: / / DATE ORDERED TO BEGIN: / /

16. FOR EMERGENCY RENOVATIONS

DATE AND HOUR OF EMERGENCY: / / TIME: / /

DESCRIPTION OF THE SUDDEN, UNEXPECTED EVENT:

EXPLANATION OF HOW THE EVENT CAUSED UNSAFE CONDITIONS OR WOULD CAUSE EQUIPMENT DAMAGE OR AN UNREASONABLE FINANCIAL BURDEN:

ASBESTOS PERMIT APPLICATION AND NOTIFICATION FOR DEMOLITION/RENOVATION

17. DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLED, PULVERIZED, OR REDUCED TO POWDER.

92 SEP -9 PM12:05

18. I CERTIFY THAT AN INDIVIDUAL TRAINED IN THE PROVISIONS OF THE NESHAP REGULATIONS WILL BE ON-SITE DURING THE DEMOLITION OR RENOVATION AND EVIDENCE THAT THE REQUIRED TRAINING HAS BEEN ACCOMPLISHED BY THIS PERSON WILL BE AVAILABLE AT THE PROJECT SITE FOR INSPECTION. (40 CFR PART 61, SUBPART M, REQUIRED AFTER NOVEMBER 20, 1991)

SUPERVISOR: _____ LICENSE #: _____
PROJECT MONITOR: _____ LICENSE #: _____
PROJECT DESIGNER: _____ LICENSE #: _____
LABORATORY: _____ LICENSE #: _____

SIGNATURE OF OWNER/OPERATOR: _____ DATE: ___/___/___

19. I CERTIFY THAT THE INFORMATION SUBMITTED IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND THAT ACCREDITED PERSONS ARE BEING USED ON THIS PROJECT.

NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: ___/___/___

AMOUNT OF ASBESTOS PROJECT FEE SUBMITTED: \$ _____

An asbestos project permit fee shall be submitted with the completed project notification. The fee shall be in accordance with the following schedule unless a blanket notification is granted under Section D. Below:

- 1. \$50 for each project equal to or greater than 10 linear feet or 10 square feet up to and including 260 linear feet or 160 square feet.
2. \$160 for each project of more than 260 linear feet or 160 square feet up to and including 2600 linear feet or 1600 square feet.
3. \$470 for each project of more than 2600 linear feet or 1600 square feet.
4. If the amount of the asbestos is reported in both linear feet and square feet the amounts will be added and treated as if the total were all in square feet for this subsection.
5. \$15 for each amended notification.

A blanket notification, valid for a period of one year, may be granted to a contractor who enters into a contract for asbestos removal or encapsulation on a specific site which is expected to last one year or longer.

Address all notifications as described below:

ASBESTOS PROGRAM SUPPORT TECHNICIAN
DEPARTMENT OF LABOR AND INDUSTRY
POWERS-TAYLOR BUILDING
13 SOUTH THIRTIETH STREET
RICHMOND, VA. 23219

FAX (804) 371-7634

CREDIT CARD TYPE: (CHECK ONE)

VISA CARD # _____ EXP. DATE: _____

MASTER CARD AUTHORIZED SIGNATURE: _____

Final Regulations

Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

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

Title of Regulations: VR 425-02-09. Asbestos Standard for General Industry (1910.1001).
VR 425-02-10. Asbestos Standard for Construction Industry (1926.58).

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

Effective Date: November 15, 1992.

Summary:

VOSH has amended its present standards for regulating the Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite for General Industry ("ATA") § 1910.1001 and Construction Industry § 1926.58, insofar as they apply to the occupational exposure to nonasbestiform tremolite, anthophyllite and actinolite (nonasbestiform ATA).

While it retained its definition of asbestos, as stated in the 1986 revised standards, OSHA lifted the administrative stay and also removed and reserved 29 CFR 1910.1101, which was designated "Asbestos," and which had been applied to nonasbestiform ATA during the administrative stay of the revised asbestos standards (29 CFR 1910.1001 and 29 CFR 1926.58). OSHA determined that the 1972 asbestos standard, which had been redesignated § 1910.1101, no longer applied to nonasbestiform ATA and, thus, no current reason existed to continue to include it in the Code of Federal Regulations.

To correct an error in the final rule which was published in the Federal Register on June 8, 1992 (57 Fed. Reg. 24310), federal OSHA made the following correction:

On page 24331, in the second column, in amendatory instruction 5e. "(m)(2)(ii)(B)" should read "(n)(2)(ii)(B)."

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Asbestos Standard for General Industry (1910.1001) and the Asbestos Standard for Construction Industry (1926.58) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason, the standards will not be printed in The Virginia Register of Regulations. Copies of the standards are available for inspection at the Department of

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

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

When the regulations as set forth in the amendment to the General Industry and Construction Industry Standards for the Occupational Exposure of Asbestos, Tremolite, Anthophyllite and Actinolite, Final Rule, and Correction are applied to the Commissioner of the Department of Labor and Industry or to the Virginia employers, the following federal terms shall be considered to read as below:

FEDERAL TERMS

29 CFR

VOSH EQUIVALENT

VOSH Standard

On August 25, 1992, the Virginia Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to the General Industry and Construction Industry Standards for the "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite," 29 CFR 1910.1001 and 20 CFR 1926.58, respectively, as published in the Federal Register Vol. 57, No. 110, pp. 24330-24331, Monday, June 8, 1992, and the correction to § 1926.58, as published in the Federal Register Vol. 57, No. 126, p. 29119, Thursday, June 30, 1992. The amendments as adopted are not set out.



COMMONWEALTH of VIRGINIA

JOAN W SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

Re: VR 425-02-09 - Asbestos Standard for General Industry
AND (§ 1910.1001); and Asbestos Standard
VR 425-02-10 for Construction Industry, (§ 1926.58).

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

* * * * *

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

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

Effective Date: November 15, 1992.

Summary:

While it retained its definition of asbestos, as stated in the 1986 revised standards, federal OSHA lifted the Administrative Stay and also removed and reserved 29 CFR 1910.1101, which was designated the Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite. This standard had been applied to nonasbestiform ATA during the administrative stay of the revised asbestos standards (29 CFR 1910.1001 and 29 CFR 1926.58). OSHA determined that the 1972 asbestos standard, which had been redesigned § 1910.1101, no longer applied to nonasbestiform ATA and, thus, no current reason existed to continue to include it in the Code of Federal Regulations.

On August 25, 1992, the Virginia Safety and Health Codes Board adopted federal OSHA's removal of the Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite, 29 CFR 1910.1101, as published in the Federal Register, Vol. 57, No. 110, p. 24330, Monday, June 8, 1992.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

RE: VR 425-02-26 - Asbestos Standard for Nonasbestiform
Tremolite, Anthophyllite and Actinolite
(§ 1910.1101)

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

* * * * *

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

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

Effective Date: November 15, 1992.

Summary:

The Virginia Safety and Health Codes Board is correcting errors that appeared in the final rule on Occupational Exposure to Formaldehyde published in the Federal Register on May 27, 1992 (57 FR 22290), and in the Virginia Register of Regulations on July 26, 1992 (8:22 VA.R. 3908-3909).

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the General Industry Standard for Occupational Exposure to Formaldehyde (1910.1048) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

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

When the regulations as set forth in the corrections to the Occupational Exposure to Formaldehyde Standard, § 1910.1048, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as below:

FEDERAL TERMS

29 CFR

VOSH EQUIVALENT

VOSH Standard

On August 25, 1992, the Virginia Safety and Health Codes Board adopted an identical version of the corrections to federal OSHA's standard entitled, "Occupational Exposure to Formaldehyde," 29 CFR 1910.1048, as published in the Federal Register, Vol. 57, No. 112, p. 24701, Wednesday, June 10, 1992, and Vol. 57, No. 118, p. 27160, Thursday, June 18, 1992.

To correct the errors published in the final rule appearing in 57 FR 22290 (May 27, 1992), federal OSHA made the following corrections:

On page 22308, in the table, in the first column, delete the ninth line, and in the second column, the fifth line should follow at the end of "facepiece" in the fourth

line. This table should read exactly as the table on page 22311.

Additional corrections published in 57 FR 27160 (June 18, 1992) include the following.

1. On page 22307, third column, in instruction paragraph 2, the following instruction is added after the seventh line: "and the OMB control number for the section is added."

2. On page 22309, third column, the OMB control number for § 1910.1048 is added at the end of the column to read as follows:

[Approved by the Office of Management and Budget under control number 1218-0145]

3. On page 22316, first column, the OMB control number for § 1910.1048 is added preceding Appendix A to read as follows:

[Approved by the Office of Management and Budget under control number 1218-0145]

4. On page 22316, first column, on the line next to the end of the column, for OSHA TWA, "1 ppm" is corrected to read "0.75."



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

310 CAPITOL STREET
RICHMOND VIRGINIA 23219
(804) 786-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

RE: VR 425-02-35 - General Industry Standard for Occupational
Exposure to Formaldehyde, (§ 1910.1048);
Corrections

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

Title of Regulation: VR 425-02-36. Virginia Occupational Safety and Health Standards for the General Industry - Air Contaminants Standard (1910.1000).

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

Effective Date: November 15, 1992.

Summary:

OSHA published the final rule on air contaminants on January 19, 1989 (54 Fed. Reg. 2332). That rule amended 29 CFR 1910.1000 and its tables. On July 5, 1989, at 54 Fed. Reg. 28054-28061 and on November 15, 1989, at 54 Fed. Reg. 47513, federal OSHA published corrections to the preamble and the rule.

Certain additional errors in the final rule came to OSHA's attention. Also, several printing errors arose during the reprintings in the Code of Federal Regulations. This document corrects those errors and makes a clarification.

The air contaminants final rule erroneously changed the nomenclature of bivalent and trivalent chromium compounds and that of chromium metal. Thus, federal OSHA is correcting the nomenclature for those substances to that of the original standard. Additionally, federal OSHA is correcting errors in nomenclature which appeared in the final rule for the various forms of crystalline silica.

OSHA has added a footnote at the end of Table Z-3 clarifying that all inert or nuisance dusts, whether mineral, inorganic or organic are covered by the Particulate Not Otherwise Regulated (PNOR) limit in Table Z-1-A and not by the nuisance dust entry of Table Z-3.

The formaldehyde entry in Table Z-2 is deleted because all formaldehyde exposures are covered by 29 CFR 1910.1048. The date in footnote "*" to Table Z-1-A is corrected to December 31, 1993, to reflect the requirements of 29 CFR 1910.1000(f)(2)(ii). Footnote b of Table Z-1-A is restated for clarity. A footnote is added to the carbon monoxide ceiling entry reflecting OSHA's enforcement policy that it is appropriate to monitor the 200 ppm ceiling over a five minute period, with an instantaneous ceiling of 1500 ppm (the IDLH Level). The other entries correct typographical errors.

VR 425-02-36. Virginia Occupational Safety and Health Standards for the General Industry - Air Contaminants Standard (1910.1000).

When the regulations as set forth in the correcting amendments to the General Industry Standard for Air Contaminants, 1910.1000, are applied to the Commissioner of the Department of Labor and Industry or to the Virginia employers, the following federal terms shall be considered to read as below:

<u>FEDERAL TERMS</u>	<u>VOSH EQUIVALENT</u>
29 CFR	VOSH Standard

On August 25, 1992, the Virginia Safety and Health Codes Board adopted an identical version of the correcting amendments to the federal OSHA standard in the General Industry for Air Contaminants, 29 CFR 1910.1000, as published in the Federal Register, Vol. 57, No. 127, p. 29204-29206, Wednesday, July 1, 1992. The amendments as adopted are not set out.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the General Industry Standard for Air Contaminants (1910.1000) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond,



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

RE: VR 425-02-36 - General Industry Standard for
Air Contaminants, (§ 1910.1000);
Correcting Amendments

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

Title of Regulation: VR 425-02-45. Explosives and Blasting Agents (1910.109).

VR 425-02-84. Process Safety Management of Highly Hazardous Chemicals (1910.119).

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

Effective Date: November 15, 1992.

Summary:

On February 24, 1992, federal OSHA published a new final rule on the Process Safety Management of Highly Hazardous Chemicals, § 1910.119, and simultaneously amended the standard on Explosives and Blasting, § 1910.109, to meet the requirements of § 1910.119.

Federal OSHA has determined that corrections are needed to the text and appendices of Process Safety Management of Highly Hazardous Chemicals and the text of the amendment to Explosives and Blasting.

To correct the errors, federal OSHA made the following changes:

1. On pages 6356 through 6417, the date at the top of each page should read: "February 24, 1992," instead of "February 24, 1991";

§ 1910.109 (Corrected)

2. On page 6403, in the second column, in the second paragraph from the bottom of the page, insert "3." before the amendatory instruction;

§ 1910.119 (Corrected)

3. On page 6403, in the third column, in § 1910.119(b), in the last paragraph, in the fourth line, "spark-producing" was misspelled;

4. On page 6404, in the third column, in § 1910.119(e)(1)(i), in the first line, "50" should read "25";

5. On the same page, in the same column, in § 1910.119(e)(1)(iii), in the first line, "than" was misspelled;

6. On the same page, in the same column, in § 1910.119(e)(1)(v), in the fifth line, "The" should read "These";

7. On page 6405, in the first column, in § 1910.119(e)(3)(iii), in the first line, "Engineering" was misspelled, and in the third line, "Interrelationships" was misspelled;

8. On the same page, in the same column, in §

1910.119(f)(1), in the fourth line, "safety" should read "safely";

Appendix A to § 1910.119 (Corrected)

9. On page 6407, in the second column, in the table, the entry for Carbonyl Fluoride was incomplete. Following the entry for Carbonyl Fluoride, insert "353-50-4" in the second column of the table, and insert "2500" in the third column of the table;

Appendix C to § 1910.119 (Corrected)

10. On page 6412, in the second column, in the second full paragraph, "operations" should read "operation"; and

11. On page 6416, in the third column, in the second full paragraph, in the 15th line, "affective" should read "affected."

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, Explosives and Blasting Agents (1910.109) and the Standard on Process Safety Management of Highly Hazardous Chemicals are declared documents generally available to the public and appropriate for incorporation by reference. For this reason, the entire documents will not be printed in The Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, Powers-Taylor Bldg; 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-45. Explosives and Blasting Agents (1910.109).

VR 425-02-84. Process Safety Management of Highly Hazardous Chemicals (1910.119).

When the regulations as set forth in the General Industry Standard for Process Safety Management of Highly Hazardous Chemicals, § 1910.119 and the Amendment to Explosives and Blasting Agents, § 1910.109, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as below:

FEDERAL TERMS

29 CFR

VOSH EQUIVALENT

VOSH Standard

On August 25, 1992, the Virginia Safety and Health Codes Board adopted an identical version of the corrections to the federal OSHA standard entitled, "Process Safety Management of Highly Hazardous Chemicals," 29 CFR 1910.119, and it adopted an identical version of the corrections to the federal OSHA amended standard entitled, "Explosives and Blasting Agents," 29 CFR 1910.109, published in the Federal Register, Vol. 57, No. 43, p. 7847, Wednesday, March 4, 1992.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

810 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

Re: VR 425-02-84 - Process Safety Management of Highly
AND Hazardous Chemicals, § 1910.119; and
VR 425-02-45 Explosives and Blasting Agents, § 1910.109.

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

Title of Regulation: VR 425-02-73. General Industry Standard for the Occupational Exposure to Hazardous Chemicals in Laboratories (1910.1450)

VR 425-02-86. General Industry Standard for Standards Organizations (1910.1500).

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

Effective Date: November 15, 1992.

Summary:

The amendments in Appendix B of § 1910.1450 and in 1910.1500 make corrections to certain addresses used to obtain technical manuals.

Specifically, federal OSHA made the following corrections:

§ 1910.1450 (Corrected)

1. In 29 CFR 1910.1450, appendix B, reference (b) 1., the address for the American Conference of Governmental Industrial Hygienists is revised from "P.O. Box 1937, Cincinnati, Ohio 45201" to "6500 Glenway Avenue, Bldg. D7, Cincinnati, Ohio 45211-4438."

2. In 29 CFR 1910.1450, appendix B, reference (c)1. is revised to read "American Conference of Governmental Industrial Hygienists Industrial Ventilation (last edition), "6500 Glenway Avenue, Bldg. D-7, Cincinnati, Ohio 45211-4438."

§ 1910.1500 (Corrected)

3. In 29 CFR 1910.1500, the address for the American Conference of Governmental Industrial Hygienists is revised from "1014 Broadway, Cincinnati, Ohio 45202" to "6500 Glenway Avenue, Bldg. D-7, Cincinnati, Ohio 45211-4438."

When the regulations, as set forth in Appendix B of the General Industry Standard for the Occupational Exposure to Hazardous Chemicals in Laboratories, § 1910.1450 and the General Industry Standard for Standards Organization, § 1910.1500, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as below:

FEDERAL TERMS

29 CFR

VOSH EQUIVALENT

VOSH Standard

On August 25, 1992, the Virginia Safety and Health Codes Board adopted federal OSHA's correcting amendments to addresses for obtaining technical manuals in Appendix B of 29 CFR 1910.1450 and in 29 CFR 1910.1500 as published in the Federal Register, Vol. 57, No. 127, p. 29204, Wednesday, July 1, 1992.

Section 1910.1500 was adopted in 1976 by the Virginia Safety and Health Codes Board prior to the current Virginia Register numbering system.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the General Industry Standard for Occupational Exposure to Hazardous Chemicals in Laboratories (1910.1450) and the General Industry Standard for Standards Organizations (1910.1500) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason, the entire documents will not be printed in The Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-73. General Industry Standard for the Occupational Exposure to Hazardous Chemicals in Laboratories (1910.1450).

VR 425-02-86. General Industry Standard for Standards Organizations (1910.1500).



COMMONWEALTH of VIRGINIA

JOAN W SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

Re: VR 425-02-73 - Occupational Exposure to Hazardous
AND Chemicals in Laboratories, and
VR 425-02-86 Standards Organizations

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

Title of Regulation: VR 425-02-83. Virginia Occupational Safety and Health Standards for the General Industry - Occupational Exposure to Bloodborne Pathogens (1910.1030).

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

Effective Date: November 15, 1992.

Summary:

The federal OSHA amendments adopted by the Virginia Safety and Health Codes Board correct errors in the regulatory text of the final rule for Occupational Exposure to Bloodborne Pathogens which appeared in the Federal Register on December 6, 1991 (56 FR 64004), and appeared in The Virginia Register of Regulations on March 23, 1992 (8:13 VA.R. 2146-2159).

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the General Industry Standard for Occupational Exposure to Bloodborne Pathogens (1910.1030) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-83. Virginia Occupational Safety and Health Standards for the General Industry - Occupational Exposure to Bloodborne Pathogens (1910.1030).

When the regulations, as set forth in the Corrections to the Occupational Exposure to Bloodborne Pathogens standard, Final Rule, § 1910.1030, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as below:

FEDERAL TERMS

VOSH EQUIVALENT

29 CFR

VOSH Standard

On August 25, 1992, the Virginia Safety and Health Codes Board adopted federal OSHA's corrections to the General Industry Standard for Occupational Exposure to Bloodborne Pathogens, 29 CFR 1910.1030, as published in the Federal Register, Vol. 57, No. 127, p. 29206, Wednesday, July 1, 1992. The following corrections were made:

1. On page 64004, first column, third heading, "29 CFR Part 1910 1030" should be corrected to read "29 CFR part 1910."

2. On page 64176, second column, § 1910.1030(d)(2)(vii)(A) is corrected to read:

"(A) Contaminated needles and other contaminated sharps shall not be bent, recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure."

3. On page 64176, second column, § 1910.1030(d)(2)(vii)(B) is corrected to read:

"(B) Such bending, recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.

4. On page 64180, second column, § 1910.1030(g)(1)(i)(B), remove the second "BIOHAZARD" term which appears in this paragraph, immediately above § 1910.1030(g)(1)(i)(C).

5. On page 64180, second column, § 1910.1030(g)(1)(i)(C), third line, is corrected to read "so, with lettering and symbols in a."

6. On page 64180, second column, § 1910.1030(g)(1)(i)(D) is corrected to read:

"(D) Labels shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal."

7. On page 64180, third column, § 1910.1030(g)(1)(ii)(A), ninth line, remove the second "BIOHAZARD" term which appears in this paragraph.

8. On page 64180, third column, § 1910.1030(g)(1)(ii)(B), third line, is corrected to read "lettering and symbols in a contrasting."

9. On page 64181, first column, § 1910.1030(g)(2)(vii)(A) is corrected to read:

"(A) An accessible copy of the regulatory text of this standard and an explanation of its contents;"

10. On page 64181, third column, § 1910.1030(h)(1)(iii)(B) is corrected to read:

"(B) Not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law."

11. On page 64181, third column, § 1910.1030(h)(3)(ii) is corrected to read:

"(ii) Employee training records required by this paragraph shall be provided upon request for examination and copying to employees, to employee representatives, to the Director, and to the Assistant Secretary."

12. On page 64181, third column, § 1910.1030(i)(2) is

corrected to read:

“(2) The Exposure Control Plan required by paragraph (c) of this section shall be completed on or before May 5, 1992.”

Final Regulations



COMMONWEALTH of VIRGINIA

JOAN W SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 796-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

RE: VR 425-02-83 - Occupational Exposure to Bloodborne Pathogens,
Final Rule § 1910.1030; Corrections

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Title of Regulation: VR 425-03-85.61. Regulations for Asbestos Emissions Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos-Containing Construction Wastes—Incorporation By Reference.

Statutory Authority: § 40.1-51.25 of the Code of Virginia.

Effective Date: November 5, 1992.

Summary:

The federal Environmental Protection Agency (EPA) standards presented to the board for consideration are the National Emissions Standards For Hazardous Air Pollutants (NESHAP) regulations 40 CFR, Part 61, §§ 61.140, 61.141, 61.145, 61.146, 61.148, 61.150 except for subsection (a)(4), 61.154 except subsection (d), and 61.156.

The EPA regulation under 40 CFR Part 61, generally, regulate human exposure to asbestos as a result of air emissions from one or more of six source categories identified in Part 61.

Conforming to § 40.1-51.23 of the Code of Virginia, only those standards within Part 61 which regulate the category of demolition and renovation and disposal of asbestos-containing wastes from such operations are presented to the board for its consideration.

VR 425-03-85.61. Regulations for Asbestos Emissions Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos-Containing Construction Wastes—Incorporation By Reference.

§1. General.

Certain federal Environmental Protection Agency Regulations on National Emissions Standards for Hazardous Air Pollutants; Asbestos contained in 40 CFR Part 61 designated in § 2 are incorporated by reference into these regulations amended by the word or phrase substitutions given in § 3. The complete text or the subparts in § 2 incorporated herein by reference is contained in 40 CFR Part 61. The 40 CFR section numbers appearing under each subpart in § 2 identify the specific provisions subpart incorporated by reference.

§ 2. Designated standards of performance.

Subpart 61.140 - Applicability, 40 CFR 61.140

Subpart 61.141 - Definitions, 40 CFR 61.141

Subpart 61.145 - Standard for Demolition and Renovation, 40 CFR 61.145 (including figure 3)

Subpart 61.146 - Standard for Spraying, 40 CFR 61.146

Subpart 61.148 - Standard for Insulating Materials, 40 CFR 61.148

Subpart 61.150 - Standard for Waste Disposal, 40 CFR 61.150 (excluding subsection (a)(4) and including figure 4)

Subpart 61.154 - Standard for Active Waste Disposal Sites, 40 CFR 61.154 (excluding subsection (d))

Subpart 61.156 - Cross-reference to other Asbestos Regulations, 40 CFR 61.156 (including Table 1)

§ 3. Word or phrase substitutions.

In all of the standards designated in § 2 substitute:

1. "Commissioner of the Department of Labor and Industry" for "Administrator."
2. "Department of Labor and Industry" for "U.S. Environmental Protection Agency" (except in references).
3. "DLI NESHAP Standard" for "40 CFR."
4. "Owner or other person" for "owner or operator."

Final Regulations



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910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

September 24, 1992

Mr. Thomas A. Bryant, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

RE: VR 425-03-85.61 - Asbestos Emissions Standards for Demolition
& Renovation Construction Activities and the
Disposal of Asbestos containing Construction
Wastes, etc.

Dear Mr. Bryant:

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

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

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

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.

Effective Date: November 4, 1992.

Summary:

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 Commission on Health Care:

- 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.

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.

Therefore the only differences between the emergency regulation and this 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 there 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

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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.

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 shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

§ 2. Seriously mentally ill adults and emotionally disturbed children.

A. Target Group.

The Medicaid eligible individual shall meet the DMHMRSAS definition for "serious mental illness," or "serious emotional disturbance in children and adolescents."

1. An active client for case management shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, significant others, service providers, and others including a minimum of one face-to-face contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.

2. There shall be no maximum service limits for case management services except case management services for individuals residing in institutions or medical facilities. For these individuals, reimbursement for case management shall be limited to 30 days immediately preceding discharge. Case management for institutionalized individuals may be billed for no more than two pre-discharge periods in 12 months.

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

Entire state.

Only in the following geographic areas (authority of section 1915(g)(1) of the Act is invoked to provide services less than Statewide:

C. Comparability of services.

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

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

D. Definition of services; mental health services.

Case management services assist individual children and adults, in accessing needed medical, psychiatric, social, educational, vocational, and other supports essential to meeting basic needs. Services to be provided include:

1. Assessment and planning services, to include developing an Individual Service Plan (does not include performing medical and psychiatric assessment but does include referral for such assessment);

2. Linking the individual to services and supports specified in the individualized service plan;

3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources;

4. Coordinating services and service planning with other agencies and providers involved with the individual;

5. Enhancing community integration by contacting

other entities to arrange community access and involvement, including opportunities to learn community living skills and use vocational, civic, and recreational services;

6. Making collateral contacts with the individuals' significant others to promote implementation of the service plan and community adjustment;

7. Follow-up and monitoring to assess ongoing progress and to ensure services are delivered; and

8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan.

E. Qualifications of providers.

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

2. To qualify as a provider of services through DMAS for rehabilitative mental health case management, the provider of the services must meet certain criteria. These criteria shall be:

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

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

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

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

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

f. The provider shall be certified as a mental health case management agency by the DMHMRSAS.

3. Providers may bill Medicaid for mental health case management only when the services are provided by qualified mental health case managers. The case manager shall possess a combination of mental health

work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities. The incumbent shall have at entry level the following knowledge, skills and abilities. These shall be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

a. Knowledge of:

(1) The nature of serious mental illness in adults and serious emotional disturbance in children and adolescents;

(2) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination;

(3) Different types of assessments, including functional assessment, and their uses in service planning;

(4) Consumers' rights;

(5) Local community resources and service delivery systems, including support services (e.g. housing, financial, social welfare, dental, educational, transportation, communication, recreational, vocational, legal/advocacy), eligibility criteria and intake processes, termination criteria and procedures, and generic community resources (e.g. churches, clubs, self-help groups);

(6) Types of mental health programs and services;

(7) Effective oral, written and interpersonal communication; principles and techniques;

(8) General principles of record documentation; and

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

b. Skills in:

(1) Interviewing;

(2) Observing, recording and reporting on an individual's functioning;

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

(4) Using information from assessments, evaluations, observation and interviews to develop service plans;

(5) Identifying services within the community and established service system to meet the individual's needs;

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(6) Formulating, writing and implementing individualized service plans to promote goal attainment for persons with serious mental illness and emotional disturbances ;

(7) Negotiating with consumers and service providers;

(8) Coordinating the provision of services by diverse public; and private providers;

(9) Identifying community resources and organizations and coordinating resources and activities; and

(10) Using assessment tools (e.g. level of function scale, life profile scale).

c. Abilities to:

(1) Demonstrate a positive regard for consumers and their families (e.g. treating consumers as individuals, allowing risk taking, avoiding stereotypes of people with mental illness, respecting consumers' and families' privacy, believing consumers are valuable members of society);

(2) Be persistent and remain objective;

(3) Work as a team member, maintaining effective inter- and intra-agency working relationships;

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

(5) Communicate effectively, verbally and in writing; and

(6) Establish and maintain ongoing supportive relationships.

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 shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

§ 3. Youth at risk of serious emotional disturbance.

A. Target Group.

Medicaid eligible individuals who meet the DMHMRSAS definition of youth at risk of serious emotional disturbance.

1. An active client shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, service providers, significant others and others including a minimum of one face-to-face contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.

2. There shall be no maximum service limits for case management services except case management services for individuals residing in institutions or medical facilities. For these individuals, reimbursement for case management shall be limited to thirty days immediately preceding discharge. Case management for institutionalized individuals may be billed for no more than two predischARGE periods in 12 months.

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

Entire state.

Only in the following geographic areas (authority of section 1915(g)(1) of the Act is invoked to provide services less than Statewide:

C. Comparability of services.

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

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

D. Definition of services; mental health services.

Case management services assist youth at risk of serious emotional disturbance in accessing needed medical, psychiatric, social, educational, vocational, and other supports essential to meeting basic needs. Services to be provided include:

1. Assessment and planning services, to include developing an Individual Service Plan;

2. Linking the individual directly to services and supports specified in the treatment/services plan;

3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources;

4. Coordinating services and service planning with other agencies and providers involved with the individual;

5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic, and recreational services;

6. Making collateral contacts which are nontherapy contacts with an individual's significant others to promote treatment or community adjustment;

7. Following-up and monitoring to assess ongoing progress and ensuring services are delivered; and

8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan.

E. Qualifications of providers.

1. To qualify as a provider of case management services to youth at risk of serious emotional disturbance, the provider of the services must meet certain criteria. These criteria shall be:

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

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

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

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

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

f. The provider shall be certified as a mental health case management agency by the DMHMRSAS.

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

a. Knowledge of:

(1) The nature of serious mental illness in adults and serious emotional disturbance in children and adolescents;

(2) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination;

(3) Different types of assessments, including functional assessment, and their uses in service planning;

(4) Consumer's rights;

(5) Local community resources and service delivery systems, including support services (e.g. housing, financial, social welfare, dental, educational, transportation, communication, recreational, vocational, legal/advocacy), eligibility criteria and intake processes, termination criteria and procedures, and generic community resources (e.g. churches, clubs, self-help groups);

(6) Types of mental health programs and services;

(7) Effective oral, written and interpersonal communication principles and techniques;

(8) General principles of record documentation; and

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

b. Skills in:

(1) Interviewing;

(2) Observing, recording and reporting on an individual's functioning;

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

(4) Using information from assessments, evaluations, observation and interviews to develop service plans;

(5) Identifying services within the community and established service system to meet the individual's needs;

(6) Formulating, writing and implementing individualized service plans to promote goal attainment for persons with serious mental illness and emotional disturbances ;

(7) Negotiating with consumers and service providers;

Final Regulations

(8) Coordinating the provision of services by diverse public and private providers;

(9) Identifying community resources and organizations and coordinating resources and activities; and

(10) Using assessment tools (e.g. level of function scale, life profile scale).

c. Abilities to:

(1) Demonstrate a positive regard for consumers and their families (e.g. treating consumers as individuals, allowing risk taking, avoiding stereotypes of people with mental illness, respecting consumers' and families' privacy, believing consumers are valuable members of society);

(2) Be persistent and remain objective;

(3) Work as a team member, maintaining effective inter- and intra- agency working relationships;

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

(5) Communicate effectively, verbally and in writing; and

(6) Establish and maintain ongoing supportive relationships.

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 shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

§ 4. Individuals with mental retardation.

A. Target group.

Medicaid eligible individuals who are mentally retarded as defined in state law.

1. An active client for mental retardation case management shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, service providers,

significant others and others including a minimum of one face-to-face contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.

2. There shall be no maximum service limits for case management services except case management services for individuals residing in institutions or medical facilities. For these individuals, reimbursement for case management shall be limited to thirty days immediately preceding discharge. Case management for institutionalized individuals be billed for no more than two predischarge periods in twelve months.

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

Entire state.

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

C. Comparability of services.

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

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

D. Definition of services.

Mental retardation services to be provided include:

1. Assessment and planning services, to include developing a Consumer Service Plan (does not include performing medical and psychiatric assessment but does include referral for such assessment);

2. Linking the individual to services and supports specified in the consumer service plan;

3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources;

4. Coordinating services and service planning with other agencies and providers involved with the individual;

5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic and recreational services;

6. Making collateral contacts with the individual's significant others to promote implementation of the

service plan and community adjustment;

7. Following-up and monitoring to assess ongoing progress and ensuring services are delivered; and

8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan.

E. Qualifications of providers.

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

2. To qualify as a provider of services through DMAS for rehabilitative mental retardation case management, the provider of the services must meet certain criteria. These criteria shall be:

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

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

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

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

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

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

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

supporting documentation or in the interview (with appropriate documentation).

a. Knowledge of:

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

(2) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination;

(3) Different types of assessments and their uses in program planning;

(4) Consumers' rights;

(5) Local community resources and service delivery systems, including support services, eligibility criteria and intake process, termination criteria and procedures and generic community resources;

(6) Types of mental retardation programs and services;

(7) Effective oral, written and interpersonal communication principles and techniques;

(8) General principles of record documentation; and

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

b. Skills in:

(1) Interviewing;

(2) Negotiating with consumers and service providers;

(3) Observing, recording and reporting behaviors;

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

(5) Identifying services within the established service system to meet the consumer's needs;

(6) Coordinating the provision of services by diverse public and private providers;

(7) Using information from assessments, evaluations, observation and interviews to develop service plans;

(8) Formulating, writing and implementing individualized consumer service plans to promote goal attainment for individuals with mental retardation; and

Final Regulations

(9) Using assessment tools.

c. Abilities to:

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

(2) Be persistent and remain objective;

(3) Work as team member, maintaining effective inter- and intra-agency working relationships;

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

(5) Communicate effectively, verbally and in writing; and

(6) Establish and maintain ongoing supportive relationships.

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 shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

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

A. Target group.

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

waiver eligibility.

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

Entire State

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

C. Comparability of services.

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

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

D. Definition of services.

Mental retardation case management services to be provided include:

1. Assessment and planning services to include developing a Consumer Service Plan (does not include performing medical and psychiatric assessment but does include referral for such assessment);

2. Linking the individual to services and supports specified in the consumer service plan;

3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources;

4. Coordinating services with other agencies and providers involved with the individual;

5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic and recreational services;

6. Making collateral contacts with the individual's significant others to promote implementation of the service plan and community adjustment;

7. Following-up and monitoring to assess ongoing progress and ensuring services are delivered; and

8. Education and counseling which guide the client and develop a supportive relationship that promotes the service plan.

E. Qualifications of providers.

1. Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is

invoked to limit case management providers for individuals with mental retardation and serious/chronic mental illness to the community services boards only to enable them to provide services to seriously/chronically mentally ill or mentally retarded individuals without regard to the requirements of § 1902(a)(10)(B) of the Act.

2. To qualify as a provider of services through DMAS for rehabilitative mental retardation case management, the provider of the services must meet certain criteria. These criteria shall be:

- a. The provider shall guarantee that clients have access to emergency services on a 24-hour basis;
- b. The provider shall demonstrate the ability to serve individuals in need of comprehensive services regardless of the individuals' ability to pay or eligibility for Medicaid reimbursement;
- c. The provider shall have the administrative and financial management capacity to meet state and federal requirements;
- d. The provider shall have the ability to document and maintain individual case records in accordance with state and federal requirements;
- e. The services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services; and
- f. The provider shall be certified as a mental retardation case management agency by the DMHMRSAS.

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

a. Knowledge of:

- (1) The definition, causes and program philosophy of mental retardation,
- (2) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination,
- (3) Different types of assessments and their uses in

program planning,

- (4) Consumers' rights,
 - (5) Local service delivery systems, including support services,
 - (6) Types of mental retardation programs and services.
 - (7) Effective oral, written and interpersonal communication principles and techniques,
 - (8) General principles of record documentation, and
 - (9) The service planning process and the major components of a service plan.
- b. Skills in:
- (1) Interviewing,
 - (2) Negotiating with consumers and service providers,
 - (3) Observing, recording and reporting behaviors,
 - (4) Identifying and documenting a consumer's needs for resources, services and other assistance,
 - (5) Identifying services within the established service system to meet the consumer's needs,
 - (6) Coordinating the provision of services by diverse public and private providers,
 - (7) Analyzing and planning for the service needs of mentally retarded persons,
 - (8) Formulating, writing and implementing individualized consumer service plans to promote goal attainment for individuals with mental retardation, and
 - (9) Using assessment tools.

c. Abilities to:

- (1) Demonstrate a positive regard for consumers and their families (e.g., treating consumers as individuals, allowing risk taking, avoiding stereotypes of mentally retarded people, respecting consumers' and families' privacy, believing consumers can grow),
- (2) Be persistent and remain objective,
- (3) Work as team member, maintaining effective interagency and intraagency working relationships,
- (4) Work independently, performing position duties

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under general supervision,

(5) Communicate effectively, verbally and in writing, and

(6) Establish and maintain ongoing supportive relationships.

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 shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

§ 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 STATE POLICE

Title of Regulation: VR 545-01-03. **Standards and Specifications for the Stickers or Decals Used by Cities, Counties and Towns in Lieu of License Plates.**

Statutory Authority: §§ 46.2-1052 and 52-8.4 of the Code of Virginia.

Effective Date: November 5, 1992.

Summary:

The amendment to these standards restricts the placement of stickers and decals used in lieu of license plates. These stickers or decals may be placed to the right of the Official Inspection sticker when viewed through the windshield from inside the vehicle or at the option of the motor vehicle's owner, affixed at the upper edge of the center of the windshield.

VR 545-01-03. Standards and Specifications for the Stickers or Decals Used by Cities, Counties and Towns in Lieu of License Plates.

~~1.0~~ § 1. Purpose.

The purpose of this standard is to establish specifications for the size and placement location of stickers or decals used by counties, cities, and towns in lieu of license plates.

~~2.0~~ § 2. Size.

The size of the sticker or decal shall not exceed three inches in height and three inches in length. The shape of the sticker or decal is optional.

~~3.0~~ § 3. Placement.

The sticker or decal shall be placed on the windshield adjacent to the left or right side of the official inspection sticker when viewed through the windshield from inside the vehicle. The top edge of the sticker or decal shall not extend upwards more than three inches from the bottom of the windshield. The side edge adjacent to the official inspection sticker shall not be more than 1/4 inch from the edge of the official inspection sticker. At the option of the motor vehicle's owner, the sticker or decal may be affixed at the upper edge of the center of the windshield.

~~4.0~~ Effective date

These regulations shall be effective on and after July 1, 1976, and until amended or rescinded.

~~5.0~~ Amended.

EMERGENCY REGULATIONS

BOARD OF HISTORIC RESOURCES

Title of Regulation: VR 390-01-03. Evaluation Criteria and Procedures for Designations by the Board of Historic Resources.

Statutory Authority: § 10.1-2205 of the Code of Virginia.

Effective Dates: September 15, 1992 through September 14, 1993.

Nature of Emergency and Necessity for Action:

Section 10.1-2204 of the Code of Virginia empowers the Board of Historic Resources to designate the buildings, structures, districts, sites and objects that constitute the state's principal historic, architectural, and archaeological resources as historic landmarks. Effective July 1, 1992, § 10.1-2205 of the Code requires that the Board promulgate regulations that at a minimum set out criteria and procedures by which the Board makes its designations.

The state landmark designation process is open to all interested persons. The Board must meet regularly throughout the year in order to provide a timely response to these applicants. In addition Chapter 801 of the 1992 Acts of Assembly requires the Board to reconsider two of its previous designations not later than June 30, 1993.

The Board is currently developing a permanent regulation setting forth evaluation criteria and administrative procedures pertinent to the designation of historic landmarks. However, the procedures and requirements of the Administrative Process Act do not allow for the promulgation of the permanent regulation in time to prevent serious disruption of the Board's orderly conduct of statutory responsibilities or to avoid significant inconvenience and hardship to interested persons. Because these procedures and requirements make virtually certain that a permanent regulation will not be in effect by June 30, 1993, the Board's ability to meet the special mandate to reconsider two previous designations by that date is in jeopardy.

Finding of Emergency:

The Board of Historic Resources finds that the unavailability of permanent regulations during the regular Administrative Process Act adoption process, which will preclude such regulations' being available to set forth evaluation criteria and administrative procedures for historic district reconsiderations required by July 1, 1993, and for historic designations, as required by Chapter 801 of the 1992 Acts of Assembly, constitutes an emergency.

Summary:

The proposed regulation establishes the evaluation criteria by which the Board shall determine whether property should be designated for inclusion in the Virginia Landmarks Register. Pursuant to the requirements of § 10.1-2205 of the Code of Virginia, the criteria are consistent with the criteria set forth in 36 CFR, Part 60, the federal regulations that implement the National Historic Preservation Act (P. L. 89-665). In addition, the proposed regulation sets out procedures for written notification to property owners and local governments, along with a requirement for public hearings in certain cases, prior to a designation by the Board. Finally, the proposed regulation sets out the procedure by which affected property owners can object to a proposed designation and prevent the Board from making the designation. The proposed procedures are consistent with the requirements of §§ 10.1-2206.1 and 10.1-2206.2 of the Code of Virginia.

VR 390-01-03. Evaluation Criteria and Procedures for Designations by the Board of Historic Resources.

PART I DEFINITIONS; APPLICABILITY

§ 1.1. Definitions.

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

"Board" means the Virginia Board of Historic Resources.

"Building" means a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may also refer to a historically related complex such as a courthouse and jail or a house and barn.

"Chief elected local official" means the mayor of the city or town or the chairman of the Board of Supervisors of the county in which the property is located.

"Department" means the Department of Historic Resources.

"Designation" means an act of official recognition by the Board of Historic Resources designed to educate the public to the significance of the designated resource and to encourage local governments and property owners to take the designated property's historic, architectural, archaeological and cultural significance into account in their planning, the local government comprehensive plan, and their decision making. Designation, itself, shall not regulate the action of local governments or property owners with regard to the designated property.

"Director" means the Director of the Department of Historic Resources.

"District" means a geographically definable area

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possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. A district includes local tax parcels that have separate owners.

"Nomination form" means the form prescribed by the Board for use by any person in presenting a property to the Board for designation by the Board.

"Object" means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment. Examples of objects include boats, monuments, and fixed pieces of sculpture.

"Owner or Owners" means those individuals, partnerships, corporations or public agencies holding fee simple title to property. Owner or owners does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature.

"Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

"Structure" means a man-made work composed of interdependent and interrelated parts in a definite pattern of organization. In addition to buildings, structures include bridges, dams, canals, docks, walls, and other engineering works.

"Virginia Landmarks Register" means the official list of properties designated by the Board pursuant to § 10.1-2204(1) of the Code of Virginia, or by the Board's predecessor boards, as constituting the principal historical, architectural, and archaeological resources that are of local, statewide, or national significance.

§ 1.2. Applicability.

This regulation pertains specifically to the designation of property by the Board for inclusion in the Virginia Landmarks Register. Parallel evaluation criteria and administrative procedures applicable to nominations of properties to the National Park Service by the Department Director are set out in a separate regulation.

PART II GENERAL PROVISIONS

§ 2. General provisions.

The Board is solely responsible for designating eligible properties for inclusion in the Virginia Landmarks Register.

Any person or organization may submit a completed nomination form to the Director for consideration by the Board. The form shall include the descriptive and analytical information necessary for the Board to determine whether the property meets the evaluation criteria for designation. Any person or organization may also request the Board's consideration of any previously prepared nomination form on record with the Department.

In determining whether to include a property in the Virginia Landmarks Register, the Board shall evaluate the property according to the Virginia Landmarks Register Criteria for Evaluation, as set out in § 3.1 of this regulation.

Prior to the formal designation of property by the Board, the Director shall follow the procedures set out in § 4.1 of this regulation concerning notification to property owners and chief local elected officials. Prior to the formal designation by the Board of a historic district, the Director shall also follow the procedures set out in § 4.2 of this regulation for conducting a public hearing.

PART III RESOURCE EVALUATION CRITERIA

§ 3.1. Virginia Landmarks Register criteria for evaluation.

A. Historic significance.

In determining whether to designate a district, site, building, structure or object to the Virginia Landmarks Register, the Board must determine whether the district, site, building, structure, or object has historic significance. A resource shall be deemed to have historic significance if it meets one or more of the following four criteria:

(i) the resource is associated with events that have made a significant contribution to the broad patterns of our history; or

(ii) the resource is associated with the lives of persons significant in our past; or

(iii) the resource embodies the distinctive characteristics of a type, period, or method of construction or design, or represents the work of a master (for example, an individual of generally recognized greatness in a field such as architecture, engineering, art, or planning or a craftsman whose work is distinctive in skill or style), or possesses high artistic values, or is a district that taken as a whole embodies one or more of the preceding characteristics, even though its components may lack individual distinction; or

(iv) the resource has yielded or is likely to yield, normally through archaeological investigation, information important in understanding the broad patterns or major events of prehistory or history.

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A Virginia Landmarks Register resource can be of national historic significance, of statewide historic significance, or of local historic significance. The Board shall use the following criteria in determining the level of significance appropriate to the resource:

(i) A property of national significance offers an understanding of the history of the nation by illustrating the nationwide impact of events or persons associated with the property, its architectural type or style, or information potential.

(ii) A property of statewide historic significance represents an aspect of the history of Virginia as a whole.

(iii) A property of local historic significance represents an important aspect of the history of a county, city, town, cultural area, or region or any portions thereof.

B. Integrity.

In addition to determining a property's significance, the Board shall also determine the property's integrity. A property has integrity if it retains the identity for which it is significant. In order to designate a property, the Board must determine both that the property is significant and that it retains integrity. To determine whether a property retains integrity, the Board shall consider the seven aspects set out here. Based on the reasons for a property's significance the Board shall evaluate the property against those aspects that are the most critical measures of the property's integrity. The seven aspects are:

(i) Location - the place where the historic property was constructed or the place where the historic event occurred. In cases such as sites of historic events, the location itself, complemented by the setting, is what people can use to visualize or recall the event.

(ii) Design - the combination of elements that create the form, plan, space, structure, and style of the property. Design results from the conscious decisions in the conception and planning of a property and may apply to areas as diverse as community planning, engineering, architecture, and landscape architecture. Principal aspects of design include organization of space, proportion, scale, technology, and ornament.

(iii) Setting - the physical environment of the historic property, as distinct from the specific place where the property was built or the event occurred. The physical features that constitute setting may be natural or man-made, and may include topographic features, vegetation, simple man-made features such as paths or fences, and relationships of a building to other features or to open space.

(iv) Materials - the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. The integrity of materials determines whether or not an authentic historic resource still exists.

(v) Workmanship - the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. Workmanship may be expressed in vernacular methods of construction and plain finishes or in highly sophisticated configurations and ornamental detailing. It may be based on common traditions or innovative period techniques. Examples of workmanship include tooling, carving, painting, graining, turning, or joinery.

(vi) Feeling - the property's expression of the aesthetic or historic sense of a particular period of time. Although it is itself intangible, feeling depends upon the presence of physical characteristics to convey the historic qualities that evoke feeling. Because it is dependent upon the perception of each individual, integrity of feeling alone will never be sufficient to support designation for inclusion in the Virginia Landmarks Register.

(vii) Association - the direct link between an important historic event or person and a historic property. If a property has integrity of association, then the property is the place where the event or activity occurred and is sufficiently intact that it can convey that relationship.

C. Additional criteria considerations.

Criteria considerations. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that are less than 50 years old shall not be considered eligible for the Virginia Landmarks Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within one or more of the following categories:

(i) a religious property deriving primary significance from architectural or artistic distinction or historical importance: a religious property shall be judged solely on these secular terms to avoid any appearance of judgment by government about the merit of any religion or belief; or

(ii) a building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(iii) a birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life; or

(iv) a cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events, or

(v) a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(vi) a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance, or

(vii) a property less than 50 years old if it is of exceptional importance.

D. Revisions to Properties Listed in the Virginia Landmarks Register.

Four justifications exist for altering a boundary of a property previously listed in the Virginia Landmarks Register:

- (i) professional error in the initial nomination;
- (ii) loss of historic integrity;
- (iii) recognition of additional significance;
- (iv) additional research documenting that a larger or smaller area should be listed.

The Board shall approve no enlargement of a boundary unless the additional area possesses previously unrecognized significance in American history, architecture, archeology, engineering or culture. The Board shall approve no diminution of a boundary unless the properties being removed do not meet the Virginia Landmarks Register criteria for evaluation.

E. Removing Properties from the Virginia Landmarks Register.

Grounds for removing properties from the Virginia Register are as follows:

- (i) the property has ceased to meet the criteria for listing in the Virginia Landmarks Register because the qualities which caused it to be originally listed have been lost or destroyed, or such qualities were lost subsequent to nomination and prior to listing;
- (ii) additional information shows that the property does not meet the Virginia Landmarks Register

criteria for evaluation;

(iii) error in professional judgment as to whether the property meets the criteria for evaluation; or

(iv) prejudicial procedural error in the designation process.

PART IV PUBLIC NOTICE AND PUBLIC HEARINGS

§ 4.1. Written notice of proposed nominations.

In any county, city, or town where the Board proposes to designate property for inclusion in the Virginia Landmarks Register, the Department shall give written notice of the proposal to the governing body and to the owner, owners, or the owner's agent, of property proposed to be designated as a historic landmark building, structure, object, or site, or to be included in a historic district, and to the owners, or their agents, of all abutting property and property immediately across the street or road from the property.

§ 4.2. Public hearing for historic district; notice of hearing.

Prior to the designation by the Board of a historic district, the Department shall hold a public hearing at the seat of government of the county, city, or town in which the proposed historic district is located or within the proposed historic district. The public hearing shall be for the purpose of supplying additional information to the Board. The time and place of such hearing shall be determined in consultation with a duly authorized representative of the local governing body, and shall be scheduled at a time and place that will reasonably allow for the attendance of the affected property owners. The Department shall publish notice of the public hearing once a week for two successive weeks in a newspaper published or having general circulation in the county, city, or town. Such notice shall specify the time and place of the public hearing at which persons affected may appear and present their views, not less than six days or more than twenty-one days after the second publication of the notice in such newspaper. In addition to publishing the notice, the Department shall give written notice of the public hearing at least five days before such hearing to the owner, owners, or the owner's agent, of each parcel of real property to be included in the proposed historic district, and to the owners, or their agents, of all abutting property and property immediately across the street or road from the included property. Notice required to be given to owners by this subsection may be given concurrently with the notice required to be given to the owners by § 4.1 of this regulation. The Department shall make and maintain an appropriate record of all public hearings held pursuant to this section.

§ 4.3. Mailings and affidavits; concurrent state and federal notice.

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The Department shall send the required notices by first class mail to the last known address of each person entitled to notice, as shown on the current real estate tax assessment books. A representative of the Department shall make an affidavit that the required mailings have been made. In the case where property is also proposed for inclusion in the National Register of Historic Places pursuant to nomination by the Director, the Department may provide concurrent notice of and hold a single public hearing on the proposed state designation and the proposed nomination to the National Register.

§ 4.4. Public comment period.

The local governing body and property owners shall have at least thirty days from the date of the notice required by § 4.1, or, in the case of a historic district, thirty days from the date of the public hearing required by § 4.2 to provide comments and recommendations, if any, to the Director. The Director shall bring all comments received to the attention of the Board.

PART V REVIEW AND ACTION BY THE DIRECTOR AND THE BOARD ON VIRGINIA LANDMARKS REGISTER PROPOSALS

§ 5.1. Requests for designations.

In addition to directing the preparation of Virginia Landmarks Register nominations by the Department, the Director shall act according to this section to ensure on behalf of the Board that the Virginia Landmarks Register nomination process is open to any person or organization.

The Director shall respond in writing within 60 days to any person or organization submitting a completed Virginia Landmarks Register nomination form or requesting Board consideration for any previously prepared nomination form on record with the Department. The response shall indicate whether or not the information on the nomination form is complete, whether or not the nomination form adequately evaluates the property according to the criteria set out in Part III of this regulation, and whether or not the property appears to meet the Virginia Landmarks Register criteria for evaluation set out in Part III. If the Director determines that the nomination form is deficient or incomplete, the Director shall provide the applicant with an explanation of the reasons for that determination, so that the applicant may provide the necessary additional documentation.

If the nomination form appears to be sufficient and complete, and if the property appears to meet the Virginia Landmarks Register criteria for evaluation, the Director shall comply with the notification requirements in Part IV of this regulation and schedule the property for presentation to the Board. The Director may require the applicant to provide a complete, accurate, and up-to-date list and annotated tax parcel map indicating all property

owners entitled to written notification pursuant to Part IV of this regulation. Within 60 days of receipt of a sufficient and complete nomination and of all information necessary to comply with Part IV of this regulation, the Director shall notify the applicant of the proposed schedule for consideration of the nomination form by the Board.

If the nomination form is sufficient and complete, but the Director determines that the property does not appear to meet Virginia Landmarks Register criteria for evaluation, the Director shall notify the applicant of his determination within 60 days of receipt of the nomination form. The Director need not process the nomination further, unless directed to do so by the Board pursuant to the Appeals process set out in § 6 of this regulation.

§ 5.2. Consideration by the Board.

The Director shall submit completed nomination forms and comments concerning the significance of a property and its eligibility for the Virginia Landmarks Register to the Board. Any person or organization which supports or opposes the designation of a property by the Board may petition the Board in writing either to accept or reject a proposed designation. The Board shall review the nomination form and any comments received concerning the property's significance and eligibility for the Virginia Landmarks Register. The Board shall determine whether or not the property meets the Virginia Landmarks Register criteria for evaluation set out in Part III of this regulation. Upon determining that the property meets the criteria, the Board may proceed to designate the property, unless the owner or majority of owners object to the designation pursuant to § 5.3 of this regulation and § 10.1-2206.2 of the Code of Virginia.

§ 5.3. Owner Objections.

Upon receiving the notification required by § 4.1 of this regulation, any owner or owners of property proposed for designation by the Board shall have the opportunity to concur in or object to that designation. Property owners who wish to object to designation shall submit to the Director a notarized statement certifying that the party is the sole or partial owner of the property, as appropriate, and objects to the designation. If the owner of a property or the majority of the owners for a district or single property with multiple owners have objected to the designation prior to the meeting of the Board at which the property is considered for designation, the Board shall take no formal action to designate the property or district for inclusion in the Virginia Landmarks Register. Where formal designation has been prevented by owner objection, the Board may reconsider the property for designation upon presentation of notarized statements sufficient to indicate that the owner or majority of owners no longer object to the designation.

Each owner of property in a district has one vote regardless of how many properties or what part of one property that party owns and regardless of whether the

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property contributes to the significance of the district.

§ 5.4. Boundary Changes.

The Director or the Board may initiate the process for changing the boundaries of a previously listed Virginia Landmarks Register property upon concluding that one or more of the conditions set out in § 3.1 D. of this regulation has been met. In addition, any person or organization may petition in writing to have a boundary changed.

A boundary alteration shall be considered as a new property nomination. In the case of boundary enlargements the notification procedures set out in Part IV of this regulation shall apply. However, only the additional area proposed for inclusion in the Virginia Landmarks Register shall be used to determine the property owners and the adjacent property owners to receive notification pursuant to § 4.1 and § 4.2 of this regulation. Only the owners of the property in the additional area shall be counted in determining whether a majority of owners object to listing in the Virginia Landmarks Register. In the case of a proposed diminution of a boundary, the Director shall notify the property owners and the chief elected local official and give them at least thirty days to comment prior to formal action by the Board.

§ 5.5. Removal of property from the Virginia Landmarks Register.

The Director or the Board may initiate the process for removing property from the Virginia Landmarks Register upon concluding that one or more of the conditions set out in § 3.1 E of this regulation have been met. Where the Director or the Board initiates the process, the Director shall notify the property owner(s) and the chief elected local official and give them at least thirty days to comment prior to formal action by the Board. In addition, any person or organization may petition in writing for removal of a property from the Virginia Landmarks Register by setting forth the reasons the property should be removed on the grounds established in § 3.1 E of this regulation.

Upon receipt of a petition for removal of property from the Virginia Landmarks Register, the Director shall notify the petitioner within forty-five days as to whether the petition demonstrates that one or more of the conditions set out in § 3.1 E above have been met. Upon finding that one or more of those conditions have been met, the Director shall notify the property owners and the chief elected local official and give them at least thirty days to comment prior to formal action by the Board. Upon a finding by the Director that none of those conditions have been met, the petitioner may appeal to the Board as set out in § 6 of this regulation.

PART VI APPEALS

§ 6. Appeals.

Any person or local government may appeal to the Board the failure or refusal of the Director to present a property to the Board, upon decision of the Director not to present the property for any reason when a completed nomination form or a petition for removal of property from the Register had been submitted to the Director pursuant to § 5.1 or § 5.5 of this regulation. The failure of the Director to respond to an applicant within the schedule set out in § 5.1 of this regulation for completed nominations or the schedule set out in § 5.5 for removal petitions may be deemed a failure or refusal to present the property to the Board. Upon the request of the Board, the Director shall complete the applicable notification and hearing requirements of this regulation and shall present the nomination form or the petition for removal to the Board for its consideration.

Subject to the provisions of the Code of Virginia and of this regulation, the Board has all final decision-making authority for adding properties to the Virginia Landmarks Register, for revising previous designations, and for removing properties from the Virginia Landmarks Register.

The Board of Historic Resources will receive, consider, and respond to petitions by any interested persons at any time with respect to reconsideration or revision of this regulation. The effective date of this regulation shall be the date upon which it is filed with the Virginia Registrar of Regulations. Unless sooner superseded, this regulation will expire 12 months after its effective date.

Adopted September 15, 1992.

/s/ John R. Broadway, Chairman
Board of Historic Resources

I attest on this day, September 15, 1992, that the above regulation was adopted on September 15, 1992.

/s/ Hugh C. Miller, Director
Department of Historic Resources

Approved this 17th day of August, 1992.

/s/ Elizabeth H. Haskell
Secretary of Natural Resources

Approved this 18th day of August, 1992

/s/ Lawrence Douglas Wilder
Governor

Filed with the Registrar of Regulations this 15th day of September, 1992.

/s/ Joan W. Smith
Registrar of Regulations

NPS Form 10-900
(Oct. 1990)

OMB No. 10024-0018

United States Department of the Interior
National Park Service

REGISTRAR OF REGULATIONS

**National Register of Historic Places
Registration Form**

02 SEP 15 PM 12:53

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in *How to Complete the National Register of Historic Places Registration Form* (National Register Bulletin 16A). Complete each item by marking "x" in the appropriate box or by entering the information requested. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. Place additional entries and narrative items on continuation sheets (NPS Form 10-900a). Use a typewriter, word processor, or computer, to complete all items.

1. Name of Property

historic name _____

other names/site number _____

2. Location

street & number _____ not for publication

city or town _____ vicinity

state _____ code _____ county _____ code _____ zip code _____

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act, as amended, I hereby certify that this nomination request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property meets does not meet the National Register criteria. I recommend that this property be considered significant nationally statewide locally. (See continuation sheet for additional comments.)

Signature of certifying official/Title _____ Date _____

State of Federal agency and bureau _____

In my opinion, the property meets does not meet the National Register criteria. (See continuation sheet for additional comments.)

Signature of certifying official/Title _____ Date _____

State or Federal agency and bureau _____

4. National Park Service Certification

I hereby certify that the property is: _____ Signature of the Keeper _____ Date of Action _____

- entered in the National Register. (See continuation sheet.)
- determined eligible for the National Register. (See continuation sheet.)
- determined not eligible for the National Register.
- removed from the National Register.
- other. (explain) _____

Name of Property _____ County and State _____

5. Classification

Ownership of Property (Check as many boxes as apply) **Category of Property** (Check only one box) **Number of Resources within Property** (Do not include previously listed resources in the count.)

- | | | | |
|---|--------------------------------------|------------------|-----------------|
| <input type="checkbox"/> private | <input type="checkbox"/> building(s) | Contributing | Noncontributing |
| <input type="checkbox"/> public-local | <input type="checkbox"/> district | _____ buildings | _____ sites |
| <input type="checkbox"/> public-State | <input type="checkbox"/> site | _____ structures | _____ objects |
| <input type="checkbox"/> public-Federal | <input type="checkbox"/> structure | _____ Total | |
| | <input type="checkbox"/> object | | |

Name of related multiple property listing (Enter "N/A" if property is not part of a multiple property listing.) _____

Number of contributing resources previously listed in the National Register _____

6. Function or Use

Historic Functions (Enter categories from instructions) **Current Functions** (Enter categories from instructions)

7. Description

Architectural Classification (Enter categories from instructions) **Materials** (Enter categories from instructions)

foundation _____
walls _____
roof _____
other _____

Narrative Description

(Describe the historic and current condition of the property on one or more continuation sheets.)

Name of Property _____ County and State _____

8. Statement of Significance

Applicable National Register Criteria
(Mark "x" in one or more boxes for the criteria qualifying the property for National Register listing.)

- A** Property is associated with events that have made a significant contribution to the broad patterns of our history.
- B** Property is associated with the lives of persons significant in our past.
- C** Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D** Property has yielded, or is likely to yield, information important in prehistory or history.

Criteria Considerations
(Mark "x" in all the boxes that apply.)

Property is:

- A** owned by a religious institution or used for religious purposes.
- B** removed from its original location.
- C** a birthplace or grave.
- D** a cemetery.
- E** a reconstructed building, object, or structure.
- F** a commemorative property.
- G** less than 50 years of age or achieved significance within the past 50 years.

Narrative Statement of Significance
(Explain the significance of the property on one or more continuation sheets.)

9. Major Bibliographical References

Bibliography
(Cite the books, articles, and other sources used in preparing this form on one or more continuation sheets.)

Previous documentation on file (NPS):

- preliminary determination of individual listing (36 CFR 67) has been requested
- previously listed in the National Register
- previously determined eligible by the National Register
- designated a National Historic Landmark
- recorded by Historic American Buildings Survey # _____
- recorded by Historic American Engineering Record # _____

Areas of Significance
(Enter categories from instructions)

Period of Significance

Significant Dates

Significant Person
(Complete if Criterion B is marked above)

Cultural Affiliation

Architect/Builder

Primary location of additional data:

- State Historic Preservation Office
- Other State agency
- Federal agency
- Local government
- University
- Other

Name of repository:

Name of Property _____ County and State _____

10. Geographical Data

Acreage of Property _____

UTM References
(Place additional UTM references on a continuation sheet.)

1 Zone Easting Northing
2 _____

3 Zone Easting Northing
4 _____

See continuation sheet

Verbal Boundary Description
(Describe the boundaries of the property on a continuation sheet.)

Boundary Justification
(Explain why the boundaries were selected on a continuation sheet.)

11. Form Prepared By

name/title _____ date _____
organization _____ telephone _____
street & number _____ city or town _____ state _____ zip code _____

Additional Documentation

Submit the following items with the completed form:

Continuation Sheets

Maps

- A USGS map (7.5 or 15 minute series) indicating the property's location.
- A Sketch map for historic districts and properties having large acreage or numerous resources.

Photographs

Representative black and white photographs of the property.

Additional Items

(Check with the SHPO or FPO for any additional items)

Property Owner

(Complete this item at the request of SHPO or FPO.)

name _____ telephone _____
street & number _____ city or town _____ state _____ zip code _____

Paperwork Reduction Act Statement: This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq.)

Estimated Burden Statement: Public reporting burden for this form is estimated to average 18 1 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the Chief, Administrative Services Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127; and the Office of Management and Budget, Paperwork Reduction Project (1024-0018), Washington, DC 20503.

Emergency Regulations

NPS Form 10-922-0
2-82 GPO Assisted by: 1984-2000

United States Department of the Interior
National Park Service

**National Register of Historic Places
Continuation Sheet**

Section number _____ Page _____

Emergency Regulations

DEPARTMENT OF HISTORIC RESOURCES

Title of Regulation: VR 392-01-02. Evaluation Criteria and Procedures for Nomination of Property to the National Park Service for Inclusion in the National Register of Historic Places or for Designation as a National Historic Landmark.

Statutory Authority: § 10.1-2202 of the Code of Virginia.

Effective Dates: September 14, 1992 through September 13, 1993.

Nature of Emergency and Necessity for Action:

Section 10.1-2201 of the Code of Virginia establishes that the Director of the Department of Historic Resources shall serve as the State Historic Preservation Officer for the purposes of carrying out the provisions of the National Historic Preservation Act. Among the responsibilities of the State Historic Preservation Officer is the nomination of properties to the National Park Service for inclusion in the National Register of Historic Places or for designation as National Historic Landmarks. Section 10.1-2202 of the Code empowers the Director, effective July 1, 1992, to promulgate regulations including at a minimum criteria and procedures for submitting these nominations of properties to the National Park Service.

By federal regulation, the federal nomination process is open to all interested persons. Also by federal regulation, the Director is required to provide these applicants with a timely response and timely action including submission of acceptable nominations to the National Park Service.

The Department is currently developing a permanent regulation setting forth evaluation criteria and administrative procedures pertinent to the nomination process. However, the procedures and requirements of the Administrative Process Act do not allow for the promulgation of the permanent regulation in time to prevent serious disruption of the Department's orderly conduct of statutory responsibilities, or to avoid violation of the procedures set out in federal regulation, or to avoid significant inconvenience and hardship to interested persons.

Finding of Emergency:

The Department of Historic Resources finds that the unavailability of permanent regulations during the regular Administrative Process Act adoption process, which will preclude such regulations' being available to set forth evaluation criteria and administrative procedures for nominations to the National Park Service, as required by Chapter 801 of the 1992 Acts of Assembly, constitutes an emergency.

Summary:

The proposed regulation establishes the evaluation criteria by which the Director shall determine whether property should be nominated to the National Park Service for inclusion in the National Register of Historic Places or for designation as a National Historic Landmark. Pursuant to the requirements of § 10.1-2202 of the Code of Virginia, the criteria are consistent with the criteria set forth in 36 CFR, Part 60, the federal regulations that implement the National Historic Preservation Act (P. L. 89-665). In addition, the proposed regulation sets out procedures for written notification to property owners and local governments, along with a requirement for public hearings in certain cases, prior to a nomination by the Director. Finally, the proposed regulation sets out the procedure by which affected property owners can object to a proposed designation and limit the action of the National Park Service. The proposed procedures are consistent with 36 CFR, Part 60 and with the requirements of §§ 10.1-2206.1 and 10.1-2206.2 of the Code of Virginia.

VR 392-01-02. Evaluation Criteria and Procedures for Nomination of Property to the National Park Service for Inclusion in the National Register of Historic Places or for Designation as a National Historic Landmark.

PART I DEFINITIONS; APPLICABILITY

§ 1.1. Definitions.

"Building" means a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may also refer to a historically related complex such as a courthouse and jail or a house and barn.

"Chief elected local official" means the mayor of the city or town or the chairman of the Board of Supervisors of the county in which the property is located.

"Department" means the Department of Historic Resources.

"Determination of eligibility" means a decision by the Department of the Interior that a district, site, building, structure or object meets the National Register criteria for evaluation although the property is not formally listed on the National Register.

"Director" means the Director of the Department of Historic Resources.

"District" means a geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated

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geographically but linked by association or history. A district includes local tax parcels that have separate owners.

"Keeper of the National Register of Historic Places" or "Keeper" means the individual who has been delegated the authority by the National Park Service to list properties and determine their eligibility for the National Register.

"National Register of Historic Places" or "National Register" means the list established by the National Historic Preservation Act of 1966 for the purpose of identifying properties of value for their significance in history, architecture, archaeology, engineering, or culture.

"Nominate" means to propose that a district, site, building, structure, or object be listed in or determined eligible for listing in the National Register of Historic Places by preparing and submitting to the Keeper a nomination form, with accompanying maps and photographs which adequately document the property and are technically and professionally correct and sufficient. The nomination form shall be the National Register nomination form prescribed by the Keeper.

"Object" means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment. Examples of objects include boats, monuments, and fixed pieces of sculpture.

"Owner or Owners" means those individuals, partnerships, corporations or public agencies holding fee simple title to property. Owner or owners does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature.

"Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

"State Review Board" means that body, appointed by the State Historic Preservation Officer pursuant to the National Historic Preservation Act (P.L. 89-665), whose members represent the professional fields of American history, architectural history, historic architecture, prehistoric and historic archaeology, and other professional disciplines, and may include citizen members. The State Review Board reviews and approves National Register nominations concerning whether or not they meet the criteria for evaluation prior to their submittal to the National Park Service.

"Structure" means a man-made work composed of interdependent and interrelated parts in a definite pattern of organization. In addition to buildings, structures include bridges, dams, canals, docks, walls, and other engineering

works.

§ 1.2. Applicability.

This regulation pertains specifically to the Director's nomination of property to the National Park Service for inclusion in the National Register of Historic Places or for designation as a National Historic Landmark. Parallel evaluation criteria and administrative procedures applicable to the designation of properties by the Virginia Board of Historic Resources are set out in a separate regulation.

PART II GENERAL PROVISIONS

§ 2. General provisions.

The Director, as State Historic Preservation Officer, is responsible for identifying and nominating eligible properties to the National Register of Historic Places. The State Historic Preservation Officer supervises the preparation of nomination forms for submission to the National Park Service.

Any person or organization may submit a completed National Register nomination form to the Director; any person or organization may also request the Director's consideration of any previously prepared nomination form on record with the Department.

In determining whether to nominate a property to the National Register, the Director shall evaluate the property according to the National Park Service's National Register Criteria for Evaluation, as set out in § 3.1 of this regulation. In determining whether to nominate a property for designation as a National Historic Landmark, the Director shall evaluate the property according to the National Park Service's National Historic Landmark Criteria, as set out in § 3.2 of this regulation.

Prior to submitting a nomination of property to the National Park Service, the Director shall follow the procedures set out in § 4.1 of this regulation concerning notification to property owners and chief local elected officials. Prior to submitting a nomination for a historic district, the Director shall also follow the procedures set out in § 4.2 of this regulation for conducting a public hearing.

The Director shall also conduct the nomination process pursuant to all applicable federal regulations as set out in 36 Code of Federal Regulations, Part 60 and in accordance with additional guidance issued by the National Park Service. Where this regulation establishes a more rigorous standard for public notification than does the corresponding federal regulation, this regulation shall apply. However, pursuant to § 10.1-2202 of the Code of Virginia, no provision of this regulation shall be construed to require the Director to conduct the National Register nomination process or the National Historic Landmark

nomination process in a manner that is inconsistent with the requirements of federal law or regulation.

PART III RESOURCE EVALUATION CRITERIA

§ 3.1. National Register criteria for evaluation.

A. Historic significance.

In determining whether to nominate a district, site, building, structure or object to the National Register, the Director must determine whether the district, site, building, structure or object has historic significance. A resource shall be deemed to have historic significance if it meets one or more of the following four criteria:

(i) the resource is associated with events that have made a significant contribution to the broad patterns of our history; or

(ii) the resource is associated with the lives of persons significant in our past; or

(iii) the resource embodies the distinctive characteristics of a type, period, design, or method of construction, or represents the work of a master (for example, an individual of generally recognized greatness in a field such as architecture, engineering, art, or planning, or a craftsman whose work is distinctive in skill or style), or possesses high artistic values, or is a district that taken as a whole embodies one or more of the preceding characteristics, even though its components may lack individual distinction; or

(iv) the resource has yielded, or is likely to yield, normally through archaeological investigation, information important in understanding the broad patterns or major events of prehistory or history.

A National Register resource can be of national historic significance, of statewide historic significance, or of local historic significance. The Director shall use the following criteria in determining the level of significance appropriate to the resource:

(i) A property of national significance offers an understanding of history of the nation by illustrating the nationwide impact of events or persons associated with the property, its architectural type or style, or information potential.

(ii) A property of statewide historic significance represents an aspect of the history of Virginia as a whole.

(iii) A property of local historic significance represents an important aspect of the history of a county, city, town, cultural area, or region or any portions thereof.

B. Integrity.

In addition to determining a property's significance, the Director shall also determine the property's integrity. A property has integrity if it retains the identity for which it is significant. In order to nominate a property to the National Register, the Director must determine both that the property is significant and that it retains integrity. To determine whether a property retains integrity, the Director shall consider the seven aspects set out here. Based on the reasons for a property's significance the Director shall evaluate the property against those aspects that are the most critical measures of the property's integrity. The seven aspects are:

(i) Location - the place where the historic property was constructed or the place where the historic event occurred. In cases such as sites of historic events, the location itself, complemented by the setting, is what people can use to visualize or recall the event.

(ii) Design - the combination of elements that create the form, plan, space, structure, and style of the property. Design results from the conscious decisions in the conception and planning of a property and may apply to areas as diverse as community planning, engineering, architecture, and landscape architecture. Principal aspects of design include organization of space, proportion, scale, technology, and ornament.

(iii) Setting - the physical environment of the historic property, as distinct from the specific place where the property was built or the event occurred. The physical features that constitute setting may be natural or man-made, and may include topographic features, vegetation, simple man-made features such as paths or fences, and relationships of a building to other features or to open space.

(iv) Materials - the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. The integrity of materials determines whether or not an authentic historic resource still exists.

(v) Workmanship - the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. Workmanship may be expressed in vernacular methods of construction and plain finishes or in highly sophisticated configurations and ornamental detailing. It may be based on common traditions or innovative period techniques. Examples of workmanship include tooling, carving, painting, graining, turning, or joinery.

(vi) Feeling - the property's expression of the aesthetic or historic sense of a particular period of

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time. Although it is itself intangible, feeling depends upon the presence of physical characteristics to convey the historic qualities that evoke feeling. Because it is dependent upon the perception of each individual, integrity of feeling alone will never be sufficient to support nomination to the National Register.

(vii) Association - the direct link between an important historic event or person and a historic property. If a property has integrity of association, then the property is the place where the event or activity occurred and is sufficiently intact that it can convey that relationship.

C. Additional criteria considerations.

Criteria considerations. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that are less than fifty years old shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within one or more of the following categories:

(i) a religious property deriving primary significance from architectural or artistic distinction or historical importance: a religious property shall be judged solely on these secular terms to avoid any appearance of judgment by government about the merit of any religion or belief; or

(ii) a building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(iii) a birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life, or

(iv) a cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events, or

(v) a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(vi) a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance, or

(vii) a property less than 50 years old if it is of exceptional importance.

D. Revisions to Properties Listed in the National Register.

Four justifications exist for altering a boundary of a property previously listed in the National Register:

(i) professional error in the initial nomination;

(ii) loss of historic integrity;

(iii) recognition of additional significance;

(iv) additional research documenting that a larger or smaller area should be listed.

The Director shall recommend no enlargement of a boundary unless the additional area possesses previously unrecognized significance in American history, architecture, archeology, engineering or culture. The Director shall recommend no diminution of a boundary unless the properties recommended for removal do not meet the National Register criteria for evaluation.

E. Removing Properties from the National Register.

Grounds for removing properties from the National Register are as follows:

(i) the property has ceased to meet the criteria for listing in the National Register because the qualities which caused it to be originally listed have been lost or destroyed, or such qualities were lost subsequent to nomination and prior to listing;

(ii) additional information shows that the property does not meet the National Register criteria for evaluation;

(iii) error in professional judgment as to whether the property meets the criteria for evaluation; or

(iv) prejudicial procedural error in the nomination or listing process.

§ 3.2. National Historic Landmark criteria for evaluation.

A. Historic significance.

In determining whether to nominate a resource for designation as a National Historic Landmark, the Director must determine whether the resource has national significance. The quality of national significance is ascribed to districts, sites, buildings, structures and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering and culture. A resource shall be deemed to have national significance for the purpose of this section if it meets one or more of the

following six criteria:

(i) the resource is associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or

(ii) the resource is associated importantly with the lives of persons nationally significant in the history of the United States; or

(iii) the resource represents some great idea or ideal of the American people; or

(iv) the resource embodies the distinguishing characteristics of an architectural type specimen exceptionally valuable for a study of a period, style or method of construction, or that represent a significant, distinctive and exceptional entity whose components may lack individual distinction; or

(v) the resource is composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or

(vi) the resource has yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts and ideas to a major degree.

B. Integrity.

In addition to determining the property's significance, the Director shall determine its integrity. As set out in § 3.1 B. of this regulation, a property's integrity is assessed by examining its location, design, setting, materials, workmanship, feeling, and association. A property nominated for designation as a National Historic Landmark must retain a high degree of integrity.

C. Additional National Historic Landmark criteria considerations.

Ordinarily, cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings and properties less than 50 years old are not eligible for designation. Such properties, however, will qualify if they fall within the following categories:

(i) a religious property deriving its primary national significance from architectural or artistic distinction or historical importance; or

(ii) a building or structure removed from its original location but which is nationally significant primarily for its architectural merit, or for association with persons or events of transcendent importance in the nation's history and the association consequential; or

(iii) a site of a building or structure no longer standing but the person or event associated with it is of transcendent importance in the nation's history and the association consequential; or

(iv) a birthplace, grave or burial if it is of a historical figure of transcendent national significance and no other appropriate site, building or structure directly associated with the productive life of that person exists; or

(v) a cemetery that derives its primary national significance from graves of persons of transcendent importance, or from an exceptionally distinctive design or from an exceptionally significant event; or

(vi) a reconstructed building or ensemble of buildings of extraordinary national significance when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other buildings or structures with the same association have survived; or

(vii) a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own national historical significance; or

(viii) a property less than 50 years old, if it is of extraordinary national importance.

PART IV PUBLIC NOTICE AND PUBLIC HEARINGS

§ 4.1. Written notice of proposed nominations.

In any county, city, or town where the Director proposes to nominate property to the National Park Service for inclusion in the National Register of Historic Places or for designation as a National Historic Landmark, the Department shall give written notice of the proposal to the governing body and to the owner, owners, or the owner's agent, of property proposed to be nominated as a historic landmark building, structure, object, or site, or to be included in a historic district, and to the owners, or their agents, of all abutting property and property immediately across the street or road from the property. The Department shall send this written notice at least 30 but not more than 75 days before the State Review Board

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meeting at which the nomination will be considered.

§ 4.2. Public hearing for historic district; notice of hearing.

Prior to the nomination of a historic district, the Department shall hold a public hearing at the seat of government of the county, city, or town in which the proposed historic district is located or within the proposed historic district. The public hearing shall be for the purpose of supplying additional information to the Director. The time and place of such hearing shall be determined in consultation with a duly authorized representative of the local governing body, and shall be scheduled at a time and place that will reasonably allow for the attendance of the affected property owners. The Department shall publish notice of the public hearing once a week for two successive weeks in a newspaper published or having general circulation in the county, city, or town. Such notice shall specify the time and place of the public hearing at which persons affected may appear and present their views, not less than six days or more than twenty-one days after the second publication of the notice in such newspaper. In addition to publishing the notice, the Department shall give written notice of the public hearing at least five days before such hearing to the owner, owners, or the owner's agent, of each parcel of real property to be included in the proposed historic district, and to the owners, or their agents, of all abutting property and property immediately across the street or road from the included property. Notice required be given to owners by this subsection may be given concurrently with the notice required to be given to the owners by § 4.1 of this regulation. The Department shall make and maintain an appropriate record of all public hearings held pursuant to this section.

§ 4.3. Mailings and affidavits; concurrent state and federal notice. The Department shall send the required notices by first class mail to the last known address of each person entitled to notice, as shown on the current real estate tax assessment books. A representative of the Department shall make an affidavit that the required mailings have been made. In the case where property is also proposed for inclusion in the Virginia Landmarks Register pursuant to designation by the Virginia Board of Historic Resources, the Department may provide concurrent notice of the proposed state designation and the proposed nomination to the National Register.

§ 4.4. Public comment period.

The local governing body and property owners shall have at least thirty days from the date of the notice required by § 4.1, or, in the case of a historic district, thirty days from the date of the public hearing required by § 4.2 to provide comments and recommendations, if any, to the Director.

PART V REVIEW AND SUBMISSION OF NOMINATIONS TO THE NATIONAL REGISTER

§ 5.1. Requests for nominations.

In addition to directing the preparation of National Register nominations by the Department, the Director shall act according to this section to ensure that, in accordance with federal regulations, the National Register nomination process is open to any person or organization.

The Director shall respond in writing within 60 days to any person or organization submitting a completed National Register nomination form or requesting consideration of any previously prepared nomination form on record with the Department. The response shall indicate whether or not the information on the nomination form is complete, whether or not the nomination form adequately evaluates the property according to the criteria set out in Part III of this regulation, and whether or not the property appears to meet the National Register criteria for evaluation set out in Part III. If the Director determines that the nomination form is deficient or incomplete, the Director shall provide the applicant with an explanation of the reasons for that determination, so that the applicant may provide the necessary additional documentation.

If the nomination form appears to be sufficient and complete, and if the property appears to meet the National Register criteria for evaluation, the Director shall comply with the notification requirements in Part IV of this regulation and schedule the property for presentation to the State Review Board. The Director may require the applicant to provide a complete, accurate, and up-to-date list and annotated tax parcel map indicating all property owners entitled to written notification pursuant to Part IV of this regulation. Within 60 days of receipt of a sufficient and complete nomination form and of all information necessary to comply with Part IV of this regulation, the Director shall notify the applicant of the proposed schedule for consideration of the nomination form by the State Review Board.

If the Director determines that the nomination form is sufficient and complete, but that the property does not appear to meet National Register criteria for evaluation, the Director need not process the nomination, unless requested to do so by the Keeper of the National Register pursuant to the appeals process set out in § 6 of this regulation.

Upon action on a nomination by the State Review Board, the Director shall, within 90 days, submit the nomination to the National Park Service, or, if the Director does not consider the property eligible for the National Register, so advise the applicant within 45 days.

§ 5.2. Consideration by the State Review Board.

The Director shall submit completed nomination forms or the documentation proposed for submission on the nomination forms and comments concerning the significance of a property and its eligibility for the

Emergency Regulations

National Register to the State Review Board. The State Review Board shall review the nomination forms or documentation proposed for submission on the nomination forms and any comments received concerning the property's significance and eligibility for the National Register. The State Review Board shall determine whether or not the property meets the National Register criteria for evaluation and make a recommendation to the Director to approve or disapprove the nomination.

§ 5.3. Submission of nominations to the National Park Service.

The Director shall review nominations approved by the State Review Board, along with all comments received. If the Director finds the nominations to be adequately documented and technically, professionally, and procedurally correct and sufficient and in conformance with National Register criteria for evaluation, the Director may submit them to the Keeper of the National Register of Historic Places, National Park Service, United States Department of the Interior, Washington, D.C. 20240. The Director shall include all written comments received and all notarized statements of objection with the nomination when it is submitted to the Keeper.

If the Director and the State Review Board disagree on whether a property meets the National Register criteria for evaluation, the Director may submit the nomination with his opinion concerning whether or not the property meets the criteria for evaluation and the opinion of the State Review Board to the Keeper of the National Register for a final decision on the listing of the property. The Director shall submit such disputed nominations if so requested within 45 days of the State Review Board meeting by the State Review Board or the chief elected local official of the county, city, or town in which the property is located but need not otherwise do so.

Any person or organization which supports or opposes the nomination of a property by a State Historic Preservation Officer may petition the Keeper during the nomination process either to accept or reject a nomination. The petitioner must state the grounds of the petition and request in writing that the Keeper substantively review the nomination.

§ 5.4. Owner Objections.

Upon receiving the notification required by § 4.1 of this regulation, the owners of property proposed for nomination shall have the opportunity to concur in or object to the nomination. Any owner or owners of a private property who wish to object shall submit to the Director a notarized statement certifying that the party is the sole or partial owner of the private property, as appropriate, and objects to the listing.

If the owner of a private property or the majority of the owners for a district or single property with multiple owners have objected to the nomination prior to the

submission of a nomination, the Director shall submit the nomination to the Keeper only for a determination of eligibility for the National Register. In accordance with the National Historic Preservation Act, the Keeper shall determine whether the property meets the National Register criteria for evaluation, but shall not add the property to the Register.

Each owner of private property in a district has one vote regardless of how many properties or what part of one property that party owns and regardless of whether the property contributes to the significance of the district.

§ 5.5. Boundary Changes.

The Director may initiate the process for changing the boundaries of a previously listed National Register property upon concluding that one or more of the conditions set out in §3.1 D. of this regulation has been met. In addition, any person or organization may petition in writing to have a boundary changed.

A boundary alteration shall be considered as a new property nomination. In the case of boundary enlargements the notification procedures set out in Part IV of this regulation shall apply. However, only the additional area proposed for nomination to the National Register shall be used to determine the property owners and the adjacent property owners to receive notification pursuant to § 4.1 and § 4.2 of this regulation. Only the owners of the property in the additional area shall be counted in determining whether a majority of private owners object to listing in the National Register. In the case of a proposed diminution of a boundary, the Director shall notify the property owners and the chief elected local official and give them an opportunity to comment prior to submitting any proposal to the Keeper of the National Register.

§ 5.6. Removal of property from the National Register.

The Director may initiate the process for removing property from the National Register upon concluding that one or more of the conditions set out in § 3.1 E of this regulation have been met. In addition, any person or organization may petition in writing for removal of a property from the National Register by setting forth the reasons the property should be removed on the grounds established in § 3.1 E of this regulation. With respect to nominations determined eligible for the National Register because the owners of private property object to listing, anyone may petition for reconsideration of whether or not the property meets the criteria for evaluation using these procedures.

The Director shall notify the affected owner(s) and chief elected local official and give them an opportunity to comment prior to submitting a petition for removal.

The Director shall respond in writing within 45 days of receipt to petitions for removal of property from the

Emergency Regulations

National Register. The response shall advise the petitioner of the Director's views on the petition. A petitioner desiring to pursue his removal request must notify the Director in writing within 45 days of receipt of the written views on the petition.

Within 15 days after receipt of the petitioner's notification of intent to pursue his removal request, the Director shall notify the petitioner in writing either that the State Review Board will consider the petition on a specified date or that the petition will be forwarded to the Keeper after notification requirements have been completed. The Director shall forward the petitions to the Keeper for review within 15 days after notification requirements or Review Board consideration, if applicable, have been completed. The Director shall also forward all comments received.

PART VI NOMINATION APPEALS

§ 6. Appeals.

Any person or local government may appeal to the Keeper the failure or refusal of the Director to nominate a property, upon decision of the Director not to nominate a property for any reason when a National Register nomination form had been submitted to the Director pursuant to § 5.1 of this regulation, or upon failure of the Director to submit a nomination recommended by the State Review Board.

The Director will receive, consider, and respond to petitions by any interested persons at any time with respect to reconsideration or revision of this regulation.

The effective date of this regulation shall be the date upon which it is filed with the Virginia Registrar of Regulations. Unless sooner superseded, this regulation will expire 12 months after its effective date.

Approved this 17th day of August, 1992.

/s/ Hugh C. Miller, Director
Department of Historic Resources

Approved this 17th day of August, 1992.

/s/ Elizabeth H. Haskell
Secretary of Natural Resources

Approved this 18th Day of August, 1992.

/s/ Lawrence Douglas Wilder
Governor

Filed with the Registrar of Regulations this 14th day of September, 1992.

/s/ Joan W. Smith
Registrar of Regulations

NPS Form 10-900
(Oct. 1990)

OMB No. 10024-0018

United States Department of the Interior
National Park Service

REGISTER OF REGULATIONS

02 SEP 19 09 11:23

National Register of Historic Places
Registration Form

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in *How to Complete the National Register of Historic Places Registration Form* (National Register Bulletin 16A). Complete each item by marking "X" in the appropriate box or by entering the information requested. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. Place additional entries and narrative items on continuation sheets (NPS Form 10-900a). Use a typewriter, word processor, or computer, to complete all items.

1. Name of Property

historic name _____

other names/site number _____

2. Location

street & number _____ not for publication

city or town _____ vicinity

state _____ code _____ county _____ code _____ zip code _____

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act, as amended, I hereby certify that this nomination request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property meets does not meet the National Register criteria. I recommend that this property be considered significant nationally statewide locally. (See continuation sheet for additional comments.)

Signature of certifying official/Title _____ Date _____

State or Federal agency and bureau _____

In my opinion, the property meets does not meet the National Register criteria. (See continuation sheet for additional comments.)

Signature of certifying official/Title _____ Date _____

State or Federal agency and bureau _____

4. National Park Service Certification

I hereby certify that the property is: _____ Signature of the Keeper _____ Date of Action _____

entered in the National Register. _____
See continuation sheet.

determined eligible for the National Register. _____
See continuation sheet.

determined not eligible for the National Register. _____

removed from the National Register. _____

other, (explain) _____

Name of Property _____ County and State _____

5. Classification

Ownership of Property
(Check as many boxes as apply)

- private
- public-local
- public-State
- public-Federal

Category of Property
(Check only one box)

- building(s)
- district
- site
- structure
- object

Number of Resources within Property
(Do not include previously listed resources in the count.)

Contributing _____ Noncontributing _____
_____ buildings
_____ sites
_____ structures
_____ objects
_____ Total

Name of related multiple property listing
(Enter "N/A" if property is not part of a multiple property listing.)

Number of contributing resources previously listed
in the National Register

6. Function or Use

Historic Functions
(Enter categories from instructions)

Current Functions
(Enter categories from instructions)

7. Description

Architectural Classification
(Enter categories from instructions)

Materials
(Enter categories from instructions)

foundation _____

walls _____

roof _____

other _____

Narrative Description

(Describe the historic and current condition of the property on one or more continuation sheets.)

Name of Property _____ County and State _____

8. Statement of Significance

Applicable National Register Criteria
(Mark "x" in one or more boxes for the criteria qualifying the property for National Register listing.)

- A** Property is associated with events that have made a significant contribution to the broad patterns of our history.
- B** Property is associated with the lives of persons significant in our past.
- C** Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D** Property has yielded, or is likely to yield, information important in prehistory or history.

Criteria Considerations
(Mark "x" in all the boxes that apply.)

Property is:

- A** owned by a religious institution or used for religious purposes.
- B** removed from its original location.
- C** a birthplace or grave.
- D** a cemetery.
- E** a reconstructed building, object, or structure.
- F** a commemorative property.
- G** less than 50 years of age or achieved significance within the past 50 years.

Narrative Statement of Significance
(Explain the significance of the property on one or more continuation sheets.)

9. Major Bibliographical References

Bibliography
(Cite the books, articles, and other sources used in preparing this form on one or more continuation sheets.)

Previous documentation on file (NPS):

- preliminary determination of individual listing (36 CFR 67) has been requested
- previously listed in the National Register
- previously determined eligible by the National Register
- designated a National Historic Landmark
- recorded by Historic American Buildings Survey # _____
- recorded by Historic American Engineering Record # _____

Areas of Significance
(Enter categories from instructions)

Period of Significance

Significant Dates

Significant Person
(Complete if Criterion B is marked above)

Cultural Affiliation

Architect/Builder

Name of Property _____ County and State _____

10. Geographical Data

Acreege of Property _____

UTM References
(Place additional UTM references on a continuation sheet.)

1

Zone	Easting	Northing

3

Zone	Easting	Northing

2

Zone	Easting	Northing

4

Zone	Easting	Northing

See continuation sheet

Verbal Boundary Description
(Describe the boundaries of the property on a continuation sheet.)

Boundary Justification
(Explain why the boundaries were selected on a continuation sheet.)

11. Form Prepared By

name/title _____

organization _____ date _____

street & number _____ telephone _____

city or town _____ state _____ zip code _____

Additional Documentation
Submit the following items with the completed form:

Continuation Sheets

Maps

A USGS map (7.5 or 15 minute series) indicating the property's location.

A Sketch map for historic districts and properties having large acreage or numerous resources.

Photographs

Representative black and white photographs of the property.

Additional items
(Check with the SHPO or FPO for any additional items)

Property Owner
(Complete this item at the request of SHPO or FPO.)

name _____

street & number _____ telephone _____

city or town _____ state _____ zip code _____

Paperwork Reduction Act Statement: This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq.).

Estimated Burden Statement: Public reporting burden for this form is estimated to average 18.1 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the Chief, Administrative Services Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, and the Office of

NPS Form 10-202-4
2-82

OMB APPROVAL NO. 1024-0047

United States Department of the Interior
National Park Service

REGISTRATION OF REGULATIONS

NOV 11 1992

**National Register of Historic Places
Continuation Sheet**

Section number _____ Page _____

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

September 1, 1992

Administrative Letter 1992-15

TO: All Insurance Companies Licensed in Virginia

RE: Licensing of Reinsurance Intermediaries

On July 1, 1992, Chapter 18 of Title 38.2 of the Code of Virginia was amended to include Article 5 (§ 38.2-1846 et seq.). Effective October 1, 1992 this new law requires the licensing of certain reinsurance intermediaries and the submission of certain broker/agency contracts for approval.

Definitions

A reinsurance intermediary means a reinsurance intermediary broker or a reinsurance intermediary manager as those terms are defined in § 38.2-1846.

A reinsurance intermediary broker is defined as any person, other than an officer or employee of the ceding insurer, who, without the power to bind the ceding insurer, solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer or otherwise negotiates with a ceding insurer concerning reinsurance cessions or retrocessions.

A reinsurance intermediary manager is defined as any person who:

- (i) has authority to bind reinsurance risks; or
- (ii) manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department or underwriting office, and

acts as an agent for such reinsurer whether known as a reinsurance intermediary manager or other similar term. The following persons shall not be considered a reinsurance intermediary manager:

1. An employee of the reinsurer;
2. A U.S. manager of the United States branch of an alien reinsurer;
3. An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to Article 5 (§ 38.2-1322 et seq.) of Chapter 13 or Article 2 (§ 38.2-4230 et seq.) of Chapter 42 of this title, and whose compensation is not based on the volume of premiums written;
4. A manager of a group, association, pool or organization of insurers which engages in joint

underwriting or joint reinsurance and which is subject to examination by the supervising insurance official of the state, as defined in § 38.2-100, in which the manager's principal business office is located; or

5. A licensed managing general agent which binds facultative reinsurance contracts by placing individual risks pursuant to obligatory facultative agreements and subdivision 10 of § 38.2-1860.

An insurer means any person duly licensed in Virginia pursuant to Chapters 10, 11, 12, 25, 26, 38 through 46, and 51 of Title 38.2 of the Code of Virginia.

A reinsurer means any insurer licensed in Virginia with authority to cede or accept from any insurer reinsurance pursuant to § 38.2-136.

License Requirements

The following persons (individuals, partnerships or corporations) are required to be licensed as a REINSURANCE INTERMEDIARY BROKER:

1. A person who acts as a reinsurance intermediary broker in Virginia and maintains an office in Virginia either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation.
2. A person who acts as a reinsurance intermediary broker in Virginia without maintaining an office in Virginia, unless such reinsurance intermediary broker is licensed as a reinsurance intermediary in another state having a law substantially similar to Virginia law.

The following persons are required to be licensed as a REINSURANCE INTERMEDIARY MANAGER:

1. A person acting as a reinsurance intermediary manager for a reinsurer domiciled in Virginia.
2. A person acting as reinsurance intermediary manager in Virginia while such person maintains an office in Virginia.
3. A person acting as a reinsurance intermediary manager in another state for an insurer licensed but not domiciled in Virginia, unless such reinsurance intermediary manager is licensed as a reinsurance intermediary in another state having a law substantially similar to Virginia law.

Virginia Code §§ 38.2-1848 through 38.2-1853 pertain to required contract provisions, books and records, and duties of the insurer or reinsurer. An insurer is subject to the provisions set forth in §§ 38.2-1848, 38.2-1849 and 38.2-1850 even if its reinsurance intermediary broker (as defined in § 38.2-1846) is not subject to licensing in Virginia. Also a reinsurer is subject to the provisions set forth in §§ 38.2-1851, 38.2-1852 and 38.2-1853 even if its reinsurance

State Corporation Commission

intermediary manager (as defined in § 38.2-1846) is not subject to licensing in Virginia. As a result of these provisions of law it may be necessary for an insurer or reinsurer to modify an existing contract in order to comply with the requirements of Article 5.

Approval of Contracts

A contract between a reinsurer and a reinsurance intermediary manager must be approved by the reinsurer's board of directors. Additionally, the contract is subject to Bureau approval regardless of whether the reinsurance intermediary manager is subject to licensing in Virginia. Pursuant to § 38.2-1851, at least thirty (30) days before a reinsurer assumes or cedes business through a reinsurance intermediary manager, a true copy of the contract must be filed with the Bureau for approval. Also any amendment to the contract must be filed with the Bureau for approval at least thirty (30) days prior to its effective date. Within thirty (30) days of termination of a contract with a reinsurance intermediary manager, the reinsurer is required to provide written notification of such termination to the Bureau.

Licensing Procedures

Any insurer or reinsurer that uses the services of a reinsurance intermediary broker or manager that is subject to licensing in Virginia is responsible for notifying each of its reinsurance intermediaries that they must request a license application package from the Bureau and be licensed.

A license issued to a reinsurance intermediary will be good for up to two (2) years and will expire every other June 30. A renewal application and a renewal fee of \$500 will have to be submitted by April 1 of the year in which the license will expire. The following items must be submitted to the Bureau as part of the initial application:

1. A \$500 nonrefundable application fee;
2. A completed application form;
3. A plan of operation;
4. A completed biographical affidavit for all individuals authorized to act as a reinsurance intermediary under the license pursuant to § 38.2-1847;
5. Current financial statement certified by a certified public accountant;
6. If the reinsurance intermediary is a reinsurance intermediary manager, a fidelity bond for the protection of each reinsurer it represents in an amount acceptable to the Bureau;
7. If the reinsurance intermediary is a reinsurance intermediary manager, an errors and omissions policy with limits acceptable to the Bureau; and

8. If the reinsurance intermediary is a reinsurance intermediary manager, a copy of any contract in force between it and any reinsurer.

Insurers and reinsurers (as defined in § 38.2-1846) will be required to submit information concerning their reinsurance intermediaries as a supplement to the annual statement. The form for providing such information will be mailed in December to each insurer and reinsurer with the license renewal package.

A copy of Article 5 has been enclosed for your review. Questions regarding the contents of this letter, requests for reinsurance intermediary application packages, and reinsurance intermediary managers' contracts subject to approval by the Bureau should be directed to the attention of:

Gregory D. Walker, CPA, Senior Insurance Auditor
State Corporation Commission/Bureau of Insurance
Financial Analysis Section
P. O. Box 1157
Richmond, VA 23209
(804) 786-4604

/s/ Steven T. Foster
Commissioner of Insurance

Virginia Tax Bulletin

Virginia Department of Taxation 92 SEP 10 1992

August 24, 1992

92-6

Interaction of the Allied-Signal Decision with Virginia Corporate Income Taxes

On June 15, 1992, the U.S. Supreme Court issued its opinion in Allied-Signal, Inc. v. Director, Division of Taxation, 60 USLW 4554, holding that income of a multistate corporation may be subject to apportionment even if there is no unitary relationship between the taxpayer and the payer of the income. In order to exclude income from apportionable income in that circumstance, the Court reiterated that the taxpayer must prove that the income was earned in the course of activities unrelated to those carried out in the taxing state. In the case of investments, the taxpayer must prove that a capital transaction serves an investment function rather than an integral operational function. The inquiry must focus on the objective characteristics of the asset's use and its relation to the taxpayer's operational business activities in Virginia.

The Allied-Signal decision supersedes the Virginia Supreme Court's opinion in Corning Glass, Virginia Dept. of Taxation, 241 Va. 353 (1991), which focused exclusively on the lack of a unitary relationship between the taxpayer and the payer of the income. The Virginia Supreme Court did not consider whether the taxpayer's evidence demonstrated that the income at issue was unrelated to the taxpayer's Virginia operational activities.

In the event a unitary relationship does not exist between a taxpayer and payer of the income at issue, taxpayers may not exclude non-dividend income from apportionable income unless they demonstrate by clear and cogent evidence the income's passive investment, versus integral operational, nature. Evidence bearing on the determination could include, in the case of a manufacturer, whether the transactions at issue constitute an integral part of a taxpayer's manufacturing process. For example, income from an interim use of idle funds accumulated for future business operations use is sufficiently close to an "operational nature" to support the apportionment of income arising from the acquisition, ownership, sale, or exchange of assets purchased with such idle funds.

Taxpayers subtracting or allocating components of federal taxable income in determining Virginia taxable income must reduce the respective components by all related expenses incurred in the taxable year in which the excluded income is earned. In addition, the apportionment factors must exclude the property, payroll and sales producing the excluded gross income item. A taxpayer's failure to identify and account for all income and expenses attributable to a purported investment function in a separately identifiable manner, with respect to income and apportionment factor calculation, may indicate that the taxpayer's "investments" are operational in nature.

The department will closely scrutinize any claim that investment income should be excluded in determining apportionable income. Any such claim must include sufficient evidence proving (1) a lack of a unitary relationship between a taxpayer and the payer of the income, (2) that the income at issue is of an "investment" versus "operational" nature, and (3) that the income and relevant apportionment factors have been appropriately adjusted by related expenses and items used to produce the excluded income.

The department will be promulgating a regulation addressing these issues in more detail, and welcomes any comments and suggestions.

AGENCY RESPONSE TO GUBERNATORIAL OBJECTION

BOARD OF PHARMACY

Title of Regulation: VR 565-01-02. Regulations Governing
the Practice of Psychology.

September 9, 1992

MEMORANDUM

To: The Honorable Lawrence Douglas Wilder
Governor

Subject: Response to Gubernatorial Objection
Proposed Regulations of the Board
of Psychology

This agency is in receipt of your comments on the proposed regulations of the Board of Psychology dated August 17, 1992 and of the Gubernatorial Objection to these regulations published in the Virginia Register of Regulations dated September 7, 1992.

The Board of Psychology has scheduled a meeting on Thursday, September 17, 1992 to consider your comments and objection. You will be notified of the Board's action immediately after this meeting.

Please let me know if you have any questions or concerns regarding this interim response to your comments and objection.

Thank you for your attention.

/s/ Bernard L. Henderson, Jr.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution. Public Participation Guidelines (Appendix E).

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across Natural Resources agencies. Pending public comment, I recommend approval of this regulation.

/s/ Lawrence Douglas Wilder

Governor

Date: September 8, 1992

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: VR 173-01-00. Public Participation Procedures. REPEALED.

Title of Regulation: VR 173-01-00:1. Public Participation Guidelines.

Governor's Comment:

The intent of this regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across Natural Resources agencies. Pending public comment, I recommend approval of this regulation.

Lawrence Douglas Wilder

Governor

Date: September 8, 1992

BOARD OF CONSERVATION AND RECREATION

Title of Regulation: VR 215-00-00. Regulatory Public Participation Procedures.

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across Natural Resources agencies. Pending public comment, I recommend approval of this regulation.

/s/ Lawrence Douglas Wilder

Governor

Date: September 8, 1992

DEPARTMENT OF CONSERVATION AND RECREATION

Title of Regulation: VR 215-01-00. Public Participation Guidelines. REPEALED.

Title of Regulation: VR 217-00-00. Regulatory Public Participation Procedures.

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across Natural Resources agencies. Pending public comment, I recommend approval of this regulation.

/s/ Lawrence Douglas Wilder

Governor

Date: September 8, 1992

COUNCIL ON THE ENVIRONMENT

Title of Regulation: VR 305-01-001. Public Participation Guidelines. REPEALED.

Title of Regulation: VR 305-01-001:1. Public Participation Guidelines.

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across Natural Resources agencies. Pending public comment, I recommend approval of this regulation.

/s/ Lawrence Douglas Wilder

Governor

Date: September 8, 1992

BOARD OF HISTORIC RESOURCES

Title of Regulation: VR 390-01-01. Public Participation Guidelines.

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across agencies in the Natural Resources secretariat. I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder

Governor

Date: September 7, 1992

DEPARTMENT OF HISTORIC RESOURCES

Title of Regulation: **VR 392-01-01. Public Participation Guidelines.**

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across agencies in the Natural Resources secretariat. I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder
Governor
Date: September 7, 1992

MARINE RESOURCES COMMISSION

Title of Regulation: **VR 450-01-0045. Public Participation Guidelines.**

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across agencies in the Natural Resources secretariat.

/s/ Lawrence Douglas Wilder
Governor
Date: September 14, 1992

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates—In-Patient Hospital Care: Disproportionate Share Adjustment for State Teaching Hospitals.**

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: September 14, 1992

BOARD OF SOCIAL WORK

Title of Regulation: **VR 620-01-2. Regulations Governing the Practice of Social Work.**

Governor's Comment:

I concur with the form and content of this proposal. My

final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: September 7, 1992

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Title of Regulation: **VR 625-00-00. Public Participation Guidelines. REPEALED.**

Title of Regulation: **VR 625-00-00:1. Regulatory Public Participation Procedures.**

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across Natural Resources agencies. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: September 8, 1992

VIRGINIA RACING COMMISSION

Title of Regulation: **VR 662-04-04. Virginia Breeders Fund.**

Governor's Comment:

The intent of this regulation is to strengthen the horsebreeding industry in the state. Pending public comment, I recommend approval of this regulation.

/s/ Lawrence Douglas Wilder
Governor
Date: September 14, 1992

DEPARTMENT OF WASTE MANAGEMENT

Title of Regulation: **VR 672-01-1. Public Participation Guidelines. REPEAL.**

Title of Regulation: **VR 672-01-1:1. Public Participation Guidelines.**

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across agencies in the Natural Resources secretariat. I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder

Governor

Governor

Date: September 14, 1992

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-14-11. Corrective Action Plan (CAP) General Permit.**

Governor's Comment:

This regulation is proposed in order to improve the administration of the Commonwealth's water quality management program. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder

Governor

Date: September 8, 1992

* * * * *

Title of Regulation: **VR 680-40-01. Public Participation Guidelines. REPEALED.**

Title of Regulation: **VR 680-40-01:1. Public Participation Guidelines.**

Governor's Comment:

The intent of the regulation is to increase public participation in the regulatory process and to bring consistency in public participation procedures across agencies in the Natural Resources secretariat. I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder

Governor

Date: September 14, 1992

The Legislative **RECORD**

vol. II / no. 4

Published in the Commonwealth of Virginia

september 1992

- 1** *SJR 103: Joint Subcommittee Studying Pollution Prevention*
- 4** *Subcommittee to Study Legalizing Riverboat Gambling*
- 5** *HJR 191: Joint Subcommittee Studying the Effectiveness of the Management Structure of the Department of Game and Inland Fisheries*
- 7** *SJR 135: Joint Subcommittee Studying the Need for Restructuring the Commonwealth's Local Social Services Delivery Systems*
- 8** *Coal and Energy Commission*
- 11** *HJR 178: Joint Subcommittee Studying the Necessity of Improvements in Erosion and Sediment Control Programs*
- 14** *HJR 107: Blue Ridge Economic Development Commission*
- 15** *HJR 180: Joint Subcommittee Studying Maternal And Perinatal Drug Exposure and Abuse*
- 17** *SB 506: Essential Services Panel*
- 18** *HB 896: Water Loss Resulting from Deep Coal Mining*
- 22** *HJR 71: A.L. Philpott Southside Economic Development Commission*
- 23** *Subcommittee on the Tom's Creek Energy Project of the Coal and Energy Commission*
- 25** *HJR 74: Commission to Stimulate Personal Initiative to Overcome Poverty*
- 26** *HJR 173: Joint Subcommittee Studying Virginia's Statutes of Limitations and Rules for Accrual in Civil Actions*
- 27** *HJR 106: Joint Subcommittee Studying the Virginia Public Procurement Act*

**SJR 103:
Joint Subcommittee
Studying
Pollution Prevention**



August 3, 1992, Richmond

During its initial meeting, the subcommittee was briefed on the concept of pollution prevention, existing Virginia and federal laws and programs, advantages of (and barriers to) the implementation of pollution prevention strategies, and approaches adopted in other states to encourage pollution prevention activities.

Pollution Prevention Concept

Pollution prevention is the reduction or elimination of pollutants through efficient use of raw materials, energy, water, or other resources. Pollution prevention, or source reduction as it is sometimes called, encompasses modifications in equipment or a process, reformulation of products, substitution of raw materials, improvements in housekeeping, training and inventory control, and any other practice that prevents the use, generation, or release of a pollutant from entering any waste stream prior to recycling, treatment, or disposal. As noted in the videotape "Pollution Prevention: The Bottom Line" (Coastal Communications, 1991), screened for the subcommittee, if a waste product is needed in order to perform a technique (such as recycling or incineration), then the technique is not within the scope of pollution prevention.

One aspect of pollution prevention that distinguishes it from the traditional pollution control approach is its emphasis on eliminating cross-media transfers of waste. Pollution control measures may stop the

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release of waste into one environmental medium only to transfer that waste to another medium. For example, wet scrubbers may control air pollution by capturing emissions, but the captured waste must then be shipped to a landfill, where it becomes a solid waste problem, which, if not properly handled, may cause groundwater contamination.

Virginia's Pollution Prevention Program

Harry E. Gregori, Jr., director of the Office of Policy, Planning and Public Affairs of the Virginia Department of Waste Management, described the state's current pollution prevention activities. Promoting pollution prevention is the first of the six goals identified in the mission statement of the new Department of Environmental Quality. The Department of Economic Development has also identified the goal of providing incentives to businesses to develop and apply new cost-effective pollution prevention and control technologies.

The Superfund Amendments and Reauthorization Act (SARA) imposes a capacity assurance planning requirement on states. By October 1995, Virginia will be required to have facilities able to treat, store, and dispose of hazardous wastes generated within its borders over the subsequent 20 years. If it cannot provide capacity assurance, Virginia will not be eligible for federal funds for Superfund cleanups. There currently are no hazardous waste landfills in Virginia, though there are two commercial solvent burners. The state has projected a 35% decrease in the generation of hazardous waste between 1989 and 1995 from waste reduction efforts. Virginia currently exports approximately 40,000 tons of hazardous waste to 15 states for treatment or disposal. In the absence of significant reduction in the amount of hazardous waste generated, a hazardous waste disposal facility may have to be sited in Virginia in order to comply with SARA.

Title III of SARA, known as the Emergency Planning and Community Right-to-know Act, requires certain manufacturers annually to report their releases and transfers of toxic chemicals through the Toxics Release Inventory (TRI). TRI data reveal that releases and transfers of the approximately 300 toxic chemicals covered has been cut from 188 million pounds to 103 million pounds between 1987 and 1990. This

45% reduction is particularly impressive because the number of reporting facilities has increased by 21% during this period. Virginia has fallen from the twelfth largest source of reported toxics in the nation in 1987 to sixteenth in 1990.

The 1988 Session of the General Assembly appropriated funds for the establishment of the Waste Reduction Assistance Program, which was awarded a \$300,000 grant from EPA to establish a cooperative pollution prevention effort with the Department of Air Pollution Control and the State Water Control Board. The joint effort, known as the Interagency Multimedia Pollution Prevention Program (IMPPP), has sought to integrate and institutionalize the objective of multimedia pollution prevention in the agencies' policies and operations and to assist Virginia industry with pollution prevention initiatives.

In addition to the Waste Reduction Assistance Program, pollution prevention activities within the Commonwealth include:

- Amoco/EPA Project, a voluntary joint project to study the Amoco Oil Company's Yorktown refinery and develop options to reduce environmental releases;
- Tidewater Interagency Pollution Prevention Project (TIPPP), a cooperative effort between EPA and the Department of Defense. Captain Tom Welch from Langley Air Force Base presented the subcommittee with a detailed overview of TIPPP and described how the participating agencies develop and implement alternative practices to reduce waste;
- Governor's Environmental Excellence Awards, which originated in 1991. Three companies (Merck & Company, Pier IX Terminal Company, and Dana Corporation) were recognized in the category of pollution prevention; and
- Toxics Task Force, established in 1990, is a multimedia effort of Virginia's environmental quality agencies aimed at furthering statewide progress in reducing toxics in the environment.

The Federal Pollution Prevention Act

The Pollution Prevention Act of 1990 established a national policy of hierarchical environmental protection, favoring (in descending order of preference) prevention, recycling or reuse, treatment, and disposal. The act requires the EPA to develop a strategy to integrate pollution prevention into all agency regulations and programs. The EPA is directed to support pollution prevention through training, an information clearinghouse, and grants to states. Most importantly, the act amends the TRI reporting requirements under SARA Title III by obligating manufacturers to provide source reduction and recycling information, including implementation of source reduction practices and techniques for identifying source reduction opportunities.

John Acheson, chief of the Prevention Integration Branch of the Pollution Prevention Division of EPA, focused his remarks to the subcommittee on the philosophical underpinnings of the pollution prevention approach. The need for pollution prevention has been recognized as it has become clear that our environmental problems have drastically changed since the "command and control" regulatory approach was implemented by environmental laws of the 1970s. It has become apparent that the scale of the human economy has begun to rival that of natural systems;

ecological systems are much more sensitive than had been presumed; and the pace of change is dramatically faster than anything natural systems have previously experienced.

The Pollution Prevention Act of 1990 is based on the fundamental philosophy that source reduction is a cost-effective activity, and that once regulatory and cultural impediments to the adoption of pollution prevention activities are removed, it will be voluntarily implemented. Unlike a traditional regulatory program, pollution prevention requires knowledge of the process employed by each potential polluter, and therefore an effective program must focus on the proper allocation of roles among federal, state, and local levels of government and private industry.

Voluntary programs, such as the 33/50 program, play a big part in implementing pollution prevention and are based on the premise that if a program is cost effective, it will be adopted if government provides the necessary information and incentives. The 33/50 program is designed to reduce emissions of 17 of the most ubiquitous chemicals by enlisting volunteers to agree to cut their discharges by 33% by 1992 and 50% by 1995. Currently over 700 companies and the Departments of Defense and Energy are enrolled in this program.

Other examples of voluntary pollution prevention initiatives include the Green Lights program, which provides information and incentives for conversions to more efficient lighting technology, and American Institute of Architects protocols, which focus on cutting indoor air pollutants, reducing the usage of exotic woods, and energy conservation.

The federal pollution prevention program is not limited to industrial pollution, just as environmental pollution does not come only from manufacturing plants. The EPA has adopted strategies to implement pollution prevention in the sectors of government, transportation, energy, and agriculture. Mr. Atcheson noted the importance of addressing the agricultural sector through integrated pest management and sustainable agricultural practices, because most surface water degradation in the United States comes from agricultural, not industrial, activities. Strategies have also been adopted in the consumer sector, because the EPA recognizes that until consumers send the "right" signals, we will not have clean goods produced. The EPA's attempt to mobilize consumer behavior has focused on working with the Federal Trade Commission in developing labelling guidelines for advertising claims.

Given the federal program's premise that pollution prevention is cost-effective and, with information and incentives, will be voluntarily implemented, it is fair to ask whether it has been successful. The results, according to Mr. Atcheson, are mixed. There has been much activity in the area of pollution prevention, but many regulatory impediments remain.

With regard to state laws furthering pollution prevention, Mr. Atcheson applauded facility planning statutes. These laws, examples of which are in effect in Texas and Washington, require facilities to audit their own operations and conduct cost accounting to analyze the benefits of pollution prevention actions. By identifying the costs of waste disposal, a polluter may realize that preventing pollution by changing a process, material, or product may make economic sense. Mr. Atcheson was more critical of state laws that impose goals for toxics use reduction, because they generally do not address the ability to find adequate, safe replacement materials. To the extent that small businesses lack the resources to conduct facility planning audits, active technical assistance programs should be made available by

the state, as has been done in Massachusetts and New Jersey. Features of other state programs recognized by Mr. Atcheson include Alaska's focus on assuring that large manufacturers provide assistance to small companies and New Jersey's development of an alternative to TRI data as a means of measuring progress in cutting toxic waste generation.

Advantages of Pollution Prevention

The advantages, both economic and environmental, of pollution prevention were spelled out to the subcommittee. Economic benefits include:

- Reduced production costs through more efficient use of raw materials;
- Avoidance of expensive control technologies, such as wet scrubbers and precipitators;
- Reduced costs of waste disposal, including tipping and transportation fees;
- Reduced risk of liability for clean-up costs under CERCLA and RCRA and for legal liability for injuries sustained by employees and the public; and
- Avoidance of negative publicity and the bad public relations that are associated with a reputation as a toxic polluter.

In addition to economic benefits, several environmental benefits of pollution prevention have been cited. Source reduction eliminates the concern with cross-media transfers of pollutants, whereby toxics can be shifted from air to solid waste to water pollution, for example, during the pollution control process. A pollution prevention approach can address dispersed, nonpoint sources of pollution better than the current system. It can be more effective than reliance on control technologies by reducing the risk of damage resulting from equipment failures, accidents, and spills. Finally, pollution prevention protects the environment by favoring the reduced usage of natural resources, including raw materials, energy, and landfill capacity.

Barriers to Pollution Prevention Implementation

Several barriers to the implementation of source reduction strategies were identified. Existing regulations that focus on treatment and disposal are a disincentive to trying new ap-

proaches. A facility operator may also be concerned that future regulations imposing mandatory percentage emissions reductions may be more difficult to meet if he implements voluntary reductions today, because the cost of cutting emissions often increases exponentially with each level of reduction.

A reluctance to exchange information is cited as a barrier to pollution prevention implementation. Fear of compromising trade secrets can be an impediment to sharing technology that could cut pollution within an industry.

Traditional accounting practices can impede pollution prevention implementation in two ways. Failure to identify a particular waste disposal cost with a product or a step in the production process disguises its true cost. Also, it is difficult to account for many nonproduction costs, such as potential liability for waste clean-up and poor public relations.

Inertia and the lack of perceived need for change also impair implementation of pollution prevention strategies. Within any organization, there is a feeling that "if it ain't broke, don't fix it."

Other barriers include the lack of resources to implement minimization projects, lack of economic incentives to conduct a cost analysis of a company's production process, and in some instances technical barriers that may prevent changes in a polluting process if there is no less-polluting alternative available.

Legislative Actions in Other States

Currently approximately 30 states have enacted legislation implementing pollution prevention. These laws encompass a wide variety of approaches, including:

- Establishing research and information centers or institutes (such as the Virginia Tech Center for Environmental and Hazardous Materials studies);
- Requiring state government agencies to implement source reduction programs;
- Requiring the development of research, development, and demonstration project programs for pollution prevention techniques;
- Establishing an awards program, with monetary awards for winners;

- Establishing a technical assistance program to provide aid through telephone hotlines, information clearinghouses, preparation of industry-specific reports, and public education and information campaigns (such as provided by Virginia's Waste Reduction Assistance Program);
- Offering on-site audits and assessments to facilities, which are then free to adopt or reject the recommendations from the audit;
- Allowing tax deductions or credits to subsidize the implementation of pollution prevention activities;
- Assessing fees or taxes on waste, based on the amount and toxicity of the pollution generated, to create an indirect financial incentive to reduce waste creation;
- Providing regulatory incentives to companies that have implemented pollution prevention activities, such as expedited permit reviews and support for variances and compliance schedule extensions;
- Requiring operators to conduct facility planning audits, whereby they are required to analyze their current waste streams, disposal costs, and feasible source reduction techniques; and
- Imposing specific toxics reduction goals and performance standards on a statewide basis.

The subcommittee determined that although the concept of pollution prevention is sufficiently broad to encompass agriculture, energy use, transportation, and other areas, its focus should be on the industrial and governmental sectors. It agreed that the focus of its next meeting will be on the implementation of pollution prevention initiatives by manufacturers within Virginia.



The Honorable R. Edward Houck, *Chairman*
Legislative Service contact: Franklin D. Munyan

**Subcommittee to Study Legalizing
 Riverboat Gambling**



August 24, 1992, Richmond

A subcommittee of the House General Laws Committee has been appointed by Delegate Diamonstein to study the desirability of legalizing riverboat gambling in Virginia. At its organizational meeting, the subcommittee announced plans to hold public hearings for the submission of testimony by interested persons. The first hearing has been tentatively set for October in Richmond. The subcommittee has asked that all inquiries and submissions be communicated through staff counsel.



The Honorable Glenn R. Croshaw, *Chairman*
Legislative Services contact: Maria J.K. Everett

HJR 191: Joint Subcommittee Studying the Effectiveness of the Management Structure of the Department of Game and Inland Fisheries

July 15, 1992, Richmond

Background

The joint subcommittee was established by the 1992 Session to study the effectiveness of the management structure of the Department of Game and Inland Fisheries. Members of the joint subcommittee will determine whether: (i) the current structure of the department allows for the most cost-effective and efficient delivery of service; (ii) the ratio of management and staff compared to the number of technical and law-enforcement personnel is appropriate to the agency's mission; and (iii) the organizational structure reflects the agency's priorities. The subcommittee is authorized to seek the assistance of the Auditor of Public Accounts and the Center for Public Service at the University of Virginia.

Last year the Department of Game and Inland Fisheries celebrated its 75th anniversary. When it was created in 1916, the department was presided over by the Commissioner of Fisheries, who was responsible for:

1. Enforcing all laws dealing with the protection, propagation and preservation of wild animals and birds and fish in waters above tidewater and
2. Assisting in enforcement of all dog and forestry laws and the prosecution of persons who violate these laws.

As the agency evolved from a department headed by an appointed commissioner to an agency supervised by a citizen board, it continued to be a special fund agency, dependent upon Virginia's sportsmen for its survival. Today, apart from its traditional roles of law enforcement and fish, game, and wildlife management, the department has assumed (i) administrative responsibility for the motorboat registration and watercraft titling program, the Watercraft Dealers Licensing Act, boating safety and hunter education programs, the Endangered Species Act, and the fish passageway program, and (ii) an essential role in the enforcement of Virginia's boating laws, including the drunk boating statute. The agency is also responsible for the development and maintenance of boat ramps and is involved in environmental impact reviews and studies on the effects of acid rain and sea turtle survival. In addition to these activities, the agency has a capital improvement program, which includes management of 180,781 acres of department-owned land, 3,374 acres of department-owned water areas, 33 wildlife management areas, 38 public fishing lakes, 9 fish hatcheries, and 179 boat ramps. The department also cooperatively manages 2.3 million acres of state and federal land.

The department carries out its mission and fulfills its statutory responsibilities with a maximum authorized staff level, as of July 1, 1992, of 444 positions, of which 435 have been established and 379 filled. Efforts to fill the established positions have been hampered by a shortage of funds as well as the need to replace a large number of senior staff who took early retirement. The agency is organized into seven divisions: law enforcement, administrative services, lands and engineering, planning, public relations, fish, and wildlife. The largest division is law enforcement, with 199 positions or 45% of the agency's total authorized workforce, followed in size by the wildlife and fish divisions. While the law enforcement division

has the greatest number of vacancies, the wildlife division has the greatest percentage of vacant positions (19%).

Because the department is a special fund agency, the size of its budget depends on revenue generated from the sale of licenses, federal matching funds, motorboat and titling fees, and contributions. For the last three years, the department's annual budget has been approximately \$25 million, with \$16-\$17 million (70%) coming from the sale of about 36 categories of hunting and fishing licenses or permits. Between \$5-\$6 million is the state's allocation from federal matching grants; \$1 million is generated through motorboat registration and titling, and \$1-\$2 million comes from donations, publications, and other sources. On the expenditure side, the largest expense for 1990-1991 was for law enforcement activities, which received \$8-\$9 million or about one-third of the total annual budget. Wildlife management activities were allocated \$4.4 million, followed by inland fish programs, \$4 million, and information, education and public affairs, \$1.77 million.

Game Department's Changing Role

The agenda for the first meeting included a description of the changing role of the agency by Director Bud Bristow and presentation of technical proposals by Walter Kucharski, Auditor of Public Accounts, and Deborah Roberts of the Center for Public Service for the evaluation of the management structure of the department.

Mr. Bristow outlined the growth and changes the department has experienced over the years and described some of the challenges and opportunities that lie ahead. The department, like most fish and wildlife agencies nationally, has experienced substantial increases in its overall responsibilities and demands for services. In order to meet many of these responsibilities "the department has been forced to extend its resources and services beyond the intended ability of its traditional hunting, fishing and boating clientele to fund." Because revenues have not increased to reflect these new

responsibilities, there has been a "general erosion of the department's ability to meet some governmental standards as well as the desired level of services to an expanded clientele." Faced with expanding demands, the department, on two occasions, has sought an independent evaluation of its programs. Both evaluations, one conducted by the Wildlife Management Institute in 1982, and the second by the Department of Information Technology, evaluated the structure and operation of the department. Each found a lack of a system of measurement and accountability for assessing the effectiveness of agency programs. The agency had not established goals and objectives, and no mechanism was in place for establishing priorities and assessing performance. It was recommended that short-term and long-term plans be established, which included measurable goals and performance objectives.

In 1987, the agency responded by embarking upon a strategic planning process. Five years later, with input from the public and staff, a five year plan was formally approved by the Board of Game and Inland Fisheries. Under this new planning process, the department recently introduced a time and activity accounting system designed to track the amount of time and the level of expenditure of each of the agency's programs. This information will be used as the basis for developing the agency's first programmatic budget in 1993. The resulting budget will be tied directly to addressing the goals, objectives, and strategies of the agency's operational plan.

Mr. Bristow concluded his testimony on a cautionary note. He called attention to new demands placed upon the department, which, coupled with less-than-projected revenues, have strained the agency's ability to meet its responsibility. These new demands come from such sources as additional federal requirements related to the administration of grants, state mandates, and requests for the provision of services in the areas of recreational boating, non-consumptive-oriented wildlife recreation, environmental review, and law enforcement.

Evaluation Work Plans

The subcommittee will be assisted in its effort to determine the effectiveness of the management structure of the game department by the Auditor of Public Accounts and the Center for Public Service. Their assessment will examine the following five general areas:

1. The statutory mandates set by the *Code of Virginia* and how the department has adopted these mandates in its mission statement and strategic plan. In addition, there will be a review of nonmandated agency activities and a determination of why such activities/programs have been undertaken by the agency;
2. Whether the department's organizational structure provides the means to deliver required services and measure program delivery;
3. If the internal staffing methods adequately allocate staffing between administrative and program functions for both the department and its divisions;
4. If the department's budgeting and accounting processes appropriately allocate resources and track their usage; and
5. Whether the department has an adequate planning mechanism to provide information about changing needs.

Mr. Kucharski and his staff will evaluate the first four items and Dr. Roberts will evaluate the fifth. Mr. Kucharski described the type of data that would be collected to measure each of these items and the method of data collection. He prepared a study schedule that called for the presentation of an interim report to the subcommittee by early October, completion of fieldwork by November 1, 1992, and production of the draft report by December 15, 1992.

While Dr. Roberts will cooperate with the auditor's office, offering technical assistance on the management audit, her primary role will be to determine whether the department has a planning mechanism able to provide information about changing needs. Her approach will be future oriented, looking at what external factors will affect the work of the department. Specifically, Dr. Roberts will seek to answer the following questions:

1. In the near future, what will be the major issues facing the department? Is the department effectively positioned to respond? How can accountability and adaptability be improved?
2. How can the department's strategic planning process and strategic management be improved?
3. Should policymakers consider making statutory changes affecting wildlife conservation and environmental management (e.g., environmental impact analysis, wildlife data base)?

Since a portion of her analysis will depend on the data generated by the auditor's evaluation, Dr. Roberts anticipates that her preliminary findings will not be available for the subcommittee's review until December 1992.

Future Meeting

The subcommittee has scheduled a meeting for October 8, 1992, at which time it will receive the interim report of the Auditor of Public Accounts. The members of the Board of Game and Inland Fisheries have been invited to attend this meeting and share with the subcommittee their comments on the findings of the auditor's report.



The Honorable Raymond R. Guest, Jr., *Chairman*
Legislative Services contact: Martin G. Farber

SJR 135: Joint Subcommittee Studying the Need for Restructuring the Commonwealth's Local Social Services Delivery Systems

August 6, 1992, Richmond

During its first meeting of 1992, the subcommittee focused on three topics: the feasibility of offering incentives for local departments of social services to consolidate or cooperate, the separation of administrative costs of local social service departments from direct services costs in the appropriation act, and a statewide automated benefit eligibility system.

Incentives for Cooperation

Last year the subcommittee reviewed the administration's 1990 proposal to consolidate local social service agencies and voted unanimously that it was the sense of the subcommittee that consolidation proposals imposing financial penalties on local social service agencies failing to consolidate will not be considered and that the subcommittee would prefer to examine incentives for consolidation. The Virginia Municipal League, the Virginia Association of Counties, and the Virginia League of Social Service Executives formed a work group to discuss cooperative efforts and possible incentives for cooperation or consolidation.

Janet Areson of VML reported that the possibility of offering better services to clients and making better use of staff and financial resources are incentives for cooperation. However, the group identified a number of disincentives, including the absence of encouragement or support from state or federal government for improving program delivery through different service delivery methods. Localities are concerned that efforts to cooperate/consolidate will focus on saving money without adequate consideration given to program quality and outcome and that instead of being rewarded, departments who cooperate may lose staff, funds, or flexibility. A list of current cooperative proposals should be developed, because there is a lack of awareness of existing cooperative efforts and their outcome. The group suggested pursuing the idea of increasing the percentage of state administrative reimbursement to local departments who cooperate on programs or share staff.

Another idea is to let local departments share a percentage of any savings achieved from cooperative efforts. This would not, however, address situations where the cooperation resulted in program improvements but not in significant cost savings. Ms. Areson reported that the group emphasized the importance of focusing on client needs and program outcome when considering cooperation/consolidation and of rewarding rather than inadvertently penalizing local departments for undertaking, continuing, or expanding cooperative ventures. Senator Gartlan pointed out that the General Assembly succeeded in halting forced consolidation and that localities had stated that better services could be delivered at lower cost if there were incentives for voluntary cooperation. He requested that the group work hard to develop specific incentives for cooperation/consolidation and submit concrete proposals at the subcommittee's next meeting.

Administrative Costs

Earl Blythe, president of the Virginia League of Social Services Executives, asked the subcommittee to consider recommending the separation of administrative costs from direct service costs in the appropriation act and stated that this distinction would provide the General Assembly and the public with a better understanding of administrative overhead costs versus the costs attributable to direct service to clients. Separation of the expenditures would require the development of a clear definition of administrative costs, which would necessitate a strong cost allocation system to track and monitor expenditures of agencies.

According to Van Beggarly, deputy commissioner for finance and administration with the Department of Social Services, the department does not object to separating the costs but anticipates problems in separating administrative costs from direct service costs in small agencies where supervisory personnel perform some direct service work. He stated that comparisons between agencies would still be difficult, because they have varying financial arrangements with their local governments and allocate costs in different ways to maximize reimbursement from the federal government. Mr. Beggarly questioned the benefit of creating two categories. He cautioned that corresponding increases in administrative costs may not be provided when direct service allocations are raised; that is, more money would be provided to increase the number of workers but not desks, office space, or other support costs. Senator Stosch suggested including salary and benefits as a separate category to permit examination of labor costs per caseload. The subcommittee decided that some members of the subcommittee would meet with the Department of Planning and Budget, the Department of Social Services, and the Virginia League of Social Services Executives to explore the extent to which the expenditures can be separately identified prior to the subcommittee's next meeting.

Project ADAPT

Mary Ellen Roberts, project manager for ADAPT (Application Benefit Delivery Automation Project) with the Department of Social Services (DSS), updated the subcommittee on the progress of ADAPT since she first explained the two-year project in October 1991. The goal of ADAPT is to significantly streamline the intake, application, and eligibility processes for benefit programs. Virginia's caseloads in AFDC, food stamps, and Medicaid have increased by 20.3%, 30.9%, and 32.6%, respectively, from April 1990 to April 1992, with only very limited increases in local staff. The department's review of existing information systems revealed that cumbersome and time-consuming steps impeded timely processing of applications and delivery of benefits and required more staff resources.

DSS determined that personal computers with graphical user interface could increase worker productivity by 48 to 55% and reduce overall computer costs. Although ADAPT is a major project and will result in fundamental changes, DSS is trying to utilize existing equipment and enhance existing systems in addition to acquiring new equipment and technology. Ms. Roberts explained the composition and role of planning groups comprised of state and local personnel and of the various pilot projects that are being implemented.

The subcommittee also heard from representatives from the counties of Arlington, Fairfax, and Henrico, who outlined ways that ADAPT will benefit the work of their agencies, praised the department's efforts to involve localities in the planning and development of

ADAPT, stressed the need for continued communication, and identified work that still needs to be done.

The project should be continued beyond the first two years, and other technologies, such as image processing, should immediately follow the first projects, according to George November, director of the Office of Technology and Information Services for Arlington County.

Verdia L. Haywood, deputy county executive for human services for Fairfax County, explained the county's efforts to redesign its human services intake system using improved technology. He outlined some of the components that an automated system should offer and stated that increased productivity is the only way to provide more services without increasing staff or costs. Mr. Haywood stated that the driving force for all process design and technology enhancement should be to improve client services and urged the state to allow localities flexibility to redesign their business processes.

Gordon G. Ragland, Jr., assistant director of the Henrico Department of Social Services, stated that the ADAPT technologies being developed for benefit programs should be considered for service programs also.

The localities represented agreed that Project ADAPT will be workable in and beneficial to their agencies. Senator Gartlan stressed that the General Assembly wants this reassurance before funding Project ADAPT. The subcommittee learned that \$1.4 million in general funds is needed for 1993 and that DSS has requested that that amount be carried over from 1992 funds. There is \$500,000 in the budget for 1994; the federal government will provide \$300,000 to \$400,000; and the remaining \$1.7 million will be requested as a budget amendment for 1994.

The subcommittee decided to advise the Secretary of Health and Human Resources and the Department of Planning and Budget (i) that it has been monitoring Project ADAPT, (ii) that DSS has responded to subcommittee concerns about moving forward in a timely manner and involving local governments in the planning process, and (iii) that the subcommittee requests favorable consideration be given to the budget requests for Project ADAPT.

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The Honorable Joseph V. Gartlan, Jr., *Chairman*
Legislative Services contact: Jessica F. Bolecek

Coal and Energy Commission

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August 5, 1992

The Coal and Energy Commission met to examine an important coal industry issue: coal exports. The commission also received testimony about the coalbed methane gas provisions in the Virginia Gas and Oil Act and a study of wood waste as a potential fuel source for state facilities.

Coal Exports

Virginia coal is exported to Europe, Asia, South America, and other overseas destinations. In 1991 alone, 16.7 million tons of Virginia's coal production were sold in the international market (see Figure 1). This market is responsible for keeping over 14,000 mining employees on a payroll, and it adds over \$700 million to the Commonwealth's gross state product. According to Carl Zipper from the Virginia Center for Coal and Energy

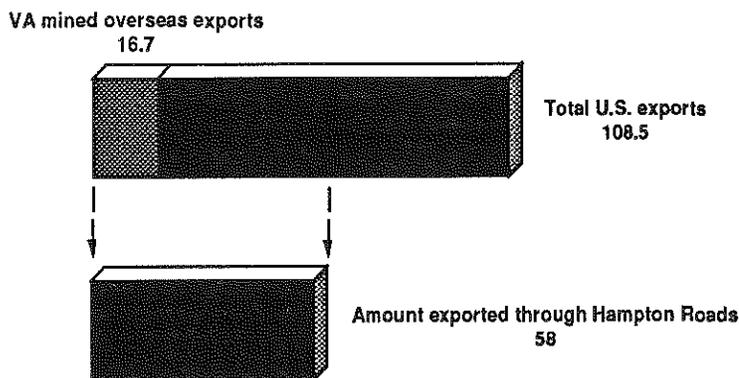


Figure 1. Coal exports in millions of tons, 1991. Source: VCCER.

Research (VCCER), however, the export market for Virginia coal may have peaked.

Over 90% of Virginia coal currently exported is metallurgical, or "met" coal. According to Mark Bower, manager for new business development with Norfolk Southern Corp., European and South American customers are seeking met coal price reductions at a time when Virginia's remaining met coal reserves are in very thin seams, difficult to mine and thus expensive to bring to market. The nature of the European coal market — the most important export market for Virginia's coal producers — is changing too. "The growth market in Europe is in steam coal," Bower told the commission, yet, "the highest and best use for Virginia coal is producing coke. It will not be easy to shift these coals to steam use."

According to a recent article in *Focus*, a Norfolk Southern publication, the export market is changing in response to downward pressure on prices for U.S. coal exports as Australia, Indonesia, and other low-cost sources increase production intended for sale in the international market. Moreover, the low levels of ash and volatiles in Central Appalachian met coal — making it a premier metallurgical coal — may become less significant as new steel making technology utilizes less expensive lower grades of coal. Dr. Zipper told the commission that by the year 2000 it is estimated that overall U.S. met coal exports will decline to 42 million tons — down from 62 million tons in 1990 (see Table 1).

	1990	2000	2010
Domestic consumption	914	989	1210
Appalachian production	382	402	457
U.S. exports	104	144	235
Appalachian exports	99	130	201
"Met" coal exports	62	47	42

Table 1. Estimated coal needs in millions of tons. Source: VCCER.

The European Economic Community's (EEC) plan to eliminate coal subsidies in member nations as a component of the EEC's 1992 plan may increase the competitiveness of U.S. coal generally in the European markets. However, North Sea natural gas may be a threat to the coal export market as power plants are constructed or retrofitted to use natural gas. Additionally, support is growing in Germany for "carbon taxes" tied to sulphur dioxide emissions from fixed point sources such as coal-fuel power plants. This may further depress the European coal market.

The bright spot in U.S. coal exports as a whole is the steam coal market. The U.S. Energy Information Administration estimates that international demand for U.S. steam coal will result in export tonnage increases from 104 million tons in 1990 to 235 million tons in 2010. Appalachian exports in that same period are expected to increase by 100%. However, as Bower emphasized, "the problem with Virginia steam coal is that it is [in deep mines] and expensive to mine. These coals will be competing with coals out of West Virginia and Kentucky surface mines." Thus, the oversupply of met coal in the world market, combined with the continuing evolution of product demand, contribute to an uncertain export picture in the long term for Virginia coal.

Coalbed Methane Gas Law

The 1989 General Assembly requested the Coal and Energy Commission to study the then-current provisions of the Virginia Gas and Oil Act to determine whether it should be modified to increase its effectiveness. One of the resulting commission recommendations was suggested clarifications of law governing the development and production of coalbed methane gas resources.

Coalbed methane gas was once viewed principally as a danger to miners put at risk when this explosive gas, trapped in coal seams, was released by coal mining activity. Mine operators attempted to reduce this hazard by venting this gas to the surface. New technology, combined with federal stimulus for development of alternative fuels, has transformed this hazard into an important energy resource. However, a serious barrier to full-scale production required the attention of the commission and, ultimately, the intervention of the 1990 General Assembly.

Coal Reserves

According to VCCER's Dr. Carl Zipper, here are the current projections:

- U.S. (including the western coal reserves): 300 years.
- Virginia: As many as 100 years. However Virginia's current production of 40+ million tons annually may be the top of Virginia's coal production curve. Production will remain at this level for 10-20 more years and then will decline. Some believe that the decline has begun, citing annual declines in tonnage following a peak of 45.6 million tons in 1990.

Under the then-current laws (Va. Code § 55-154.1), known as the Migratory Gas Act, commercial developers of coalbed methane gas ran the risk of entangling themselves in litigation over gas ownership. The Migratory Gas Act established a presumption that the surface owner owned all migratory gases (e.g., coalbed methane) beneath the surface. However, deeds and leases in Southwest Virginia's mining areas frequently sever mineral interests from the surface estate conveyed or leased, leaving uncertain whether subsurface interests created by lease or conveyance included migratory gases. As a consequence, commercial gas developers were reluctant to begin drilling in areas where gas ownership rights were less than clear out of concern that third parties claiming title to the gas rights would sue for trespass and seek civil damages for "willful taking." Further complicating matters were coal operators' concerns that fracturing coal seams to extract natural gas might make it practically difficult or economically unfeasible to mine the seams.

The commission supported proposed legislation addressing the concerns of commercial gas developers and mine operators alike. First, a statutory or "forced" pooling mechanism was proposed to permit gas development to occur where coalbed methane ownership rights were in dispute. A percentage of gas production proceeds would be escrowed pending determination of legal entitlement or upon

agreement among all claimants. The coal operator concerns were addressed by requiring gas developers, under certain conditions, to obtain the prior consent of the coal's owners before coalbed methane is extracted from a coal seam. Finally, the commission endorsed a proposal creating a seven-member Virginia Gas and Oil Board, whose duties would include issuing pooling orders, dealing with conservation issues, and hearing all appeals from the decisions of inspectors regarding the permitting of wells. The commission's recommendations were enacted by the 1990 General Assembly as new provisions in the Virginia Gas and Oil Act.

W.G. Mason, a member of the Gas and Oil Board, advised the commission that the act's two-year operation has been an unparalleled success in fostering development of this resource. According to Mason, 110 coalbed methane wells were drilled in 1991 at a cost of approximately \$200,000 per well. Most of the drilling has occurred in the Oakwood Field in Buchanan County in the Pocahontas #2 seam, considered one of the most gaseous coal seams in the country. Moreover, a pipeline to transport the gas will soon be completed, connecting with the Columbia pipeline system.

Forced pooling pursuant to the 1990 legislation is indispensable to this fledgling industry. In some cases, the coalbed methane developer and the owner or lessee of the mineral rights to a parcel are one and the same, or are affiliated. However, it is commonly the case that surface interests and the mineral rights are separately owned. The existence of separate leases for oil and conventional natural gas in areas with known coalbed methane pockets further necessitates statutory pooling. Mason said that forced pooling also works particularly well where the potential owners of the coalbed methane rights associated with a parcel of property may number in the hundreds, making leasing methane gas rights — outside of forced pooling — a virtual impossibility. In one case cited by Mason, one 33-acre parcel had over 1,000 potential gas rights owners — each with a minute legal interest in these rights.

Mason told the commission that Virginia's coalbed methane laws are now serving as a model for federal and international legislation. The House version of the federal energy bill (HR 766) requires states with coalbed methane in the Appalachian Basin to use a coalbed methane regulatory scheme patterned after the Virginia law unless these states adopt laws at least as stringent as the federal mandate.

The Senate version (S 2166) does not contain comparable provisions. But, according to Mason, sources close to the two measures expect that the coalbed methane provisions will be endorsed by the House and Senate Conference Committee expected to take up these bills when Congress returns from its summer recess. There are also reports of German and French interest in using the Virginia coalbed methane laws as a model in connection with the development of the coalbed methane industry in these European countries as well.

Wood Waste: An Alternative Fuel

Virginia's wood processing industries create manufacturing residues, such as bark and sawdust, that may be reprocessed as secondary commercial products (e.g., mulch, particle board). However, the levels of wood wastes currently generated often exceed the market's capacity to absorb them. Wood products manufacturers see wood residue disposal as a barrier to expansion unless a new market can be found for it. Many are hauling most of their waste to landfills since the market for secondary products is saturated. Thus, the most promising near term use may be as a fuel.

HJR 69 Study

The A.L. Philpott Southside Development Commission's 1992 report recommended a research initiative to examine the policies necessary to promote greater use of wood wastes as fuels at state facilities. The 1992 General Assembly enacted HJR 69, directing the Coal and Energy Commission to conduct this study with the assistance of the Virginia Center for Coal and Energy Research (VCCER) and the Brooks Forest Products Center at VPI. The use of wood wastes as fuels in state facilities is viewed as an important way to stimulate the development of this important alternative fuels market.

Carl Zipper from the VCCER and Jack Muench from the Brooks Forest Products Center appeared before the commission to discuss the wood waste issue and to propose a study plan for HJR 69. Dr. Muench stated that the use of wood wastes as fuel is not a new idea in state government. Seventeen major buildings in the Capitol Complex in Montpelier, Vermont, have been converted from number 6 fuel oil to wood fuels, generating an annual savings of over \$100,000. Emphasizing wood burning's environmental advantages, Dr. Muench noted that wood, unlike coal, generates no sulphur emissions. Coal's ash content usually exceeds six percent; wood, by comparison, has less than one percent of ash.

The study will review air quality and solid waste issues associated with wood burning, wood waste plant conversion programs from other states, and data from the three state facilities in Virginia that currently use wood waste as fuel. The study will also develop criteria for evaluating the technical and economic efficiency or benefits of converting facilities from their current fuel source to wood. The study's analysis of candidates for conversion to wood waste fuels will be limited to those state facilities due for boiler replacements.

The HJR-69 study was referred to the renewable resources subcommittee, which will oversee the study through the preparation of a preliminary report to the commission. A formal report will be prepared by the commission for submission to the Governor and the 1993 Session of the General Assembly.

HJR 178: Joint Subcommittee Studying the Necessity of Improvements in Erosion and Sediment Control Programs

♦
August 6, 1992, Harrisonburg

After appointing 11 members to the citizen advisory council authorized by HJR 178, the subcommittee received information regarding the effectiveness of local erosion and sediment (E&S) control programs, E&S control programs operated by the Departments of Forestry and Transportation, and the role of soil and water conservation districts in the administration of Virginia's E&S control law.

Case Studies of Local Problems

James W. Cox, chief of the Bureau of Technical Services of the Division of Soil and Water Conservation, Department of Conservation and Recreation, provided the subcommittee with evidence of the relationship

**Wood Waste Combustion:
Regulatory Issues**

The Virginia Department of Mines, Minerals and Energy (DMME) recently informed the commission of its participation in a multistate study of wood products in the waste stream. Examining the regulatory issues affecting the processing and combustion of waste wood for energy, the study was recently concluded and a report of its findings released. DMME's Kathy Reynolds presented a summary of that report to the commission.

Air quality and solid waste disposal issues were foremost in the report's analysis. Ms. Reynolds noted that current state regulations in both areas would influence the course of developing a market and standards for wood waste as an alternative fuel. Burning waste wood treated with chemicals, for example, would result in the burn site's classification as an incinerator, thus triggering stringent regulations. Additionally, ash produced by wood waste burning may require testing to determine whether it is nonhazardous (e.g., does not contain PCBs or dioxin) and may be disposed of in a landfill. The study report is expected to provide useful information in conjunction with the HJR 69 study discussed above.



The Honorable A. Victor Thomas, *Chairman*
Legislative Services contact: Arlen K. Bolstad

between an effective E&S control program and levels of water pollution. Figure 1 depicts the benefits of implementing E&S control measures prior to the commencement of land-disturbing activities. The goal of any erosion control program should be to minimize the length of time uncontrolled earth is exposed. Once a site is stabilized by seeding or mulching, sedimentation is reduced to one-sixth of what it would be for an uncontrolled site. Soil loss from an uncontrolled site can range from 35 to 45 tons per acre per year.

In response to questions raised at the June subcommittee meeting regarding the connection between the division's rating of local programs and the amount of soil loss, Mr. Cox presented an analysis of the potential sediment loading in all localities. By combining the program ratings with the amount of disturbed areas, the division assigned priorities to programs based on the relationship between the quality of the E&S control program and the amount of land disturbing activity.

Several case studies were presented to indicate the variety of erosion problems across the Commonwealth. The case studies were drawn from over 2,900

cases of technical assistance provided by the division in fiscal year 1991, of which 283 were complaint responses. This compares with 282 complaint responses in 1991 and 193 thus far in 1992. The case studies included:

- A site in the City of Harrisonburg, which has never been effectively stabilized or controlled. The city has not required the developer to take corrective action, despite several requests by the department.
- A site near Aylett in King and Queen County suffering soil erosion resulting from inadequate stabilization along the Mattaponi River. Though the county took enforcement action by issuing a stop work ordinance, the local program contributed to the problem by approving an inadequate erosion control plan and allowing construction to start without inspecting to determine whether control measures were in place.
- A site near Tappahannock in Essex County, where the initial erosion control plan approved by the program administrator was inadequate. The measures required by the initial plan were not implemented. Ultimately, the soil and water conservation district advised the locality of problems with the stormwater retention pond. The county relied on division personnel, who lack authority to enforce the local ordinance, to work with the developer in resolving the problems.
- The Tazewell County airport site, developed

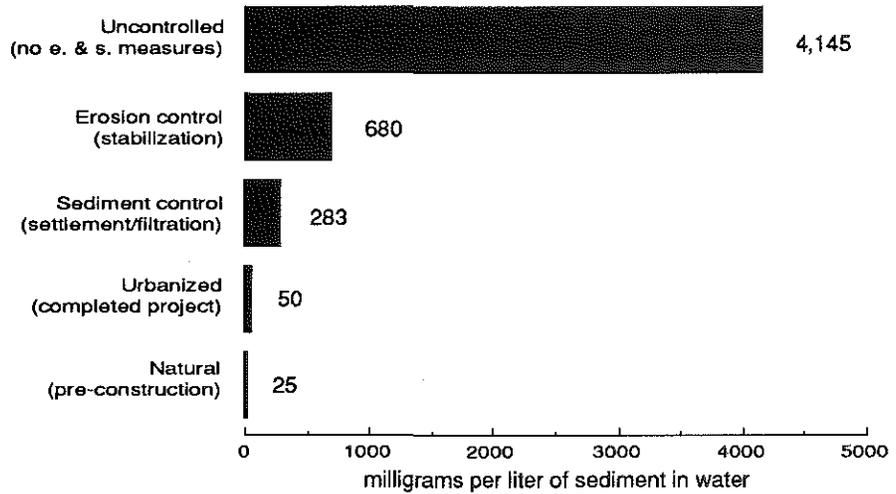


Figure 1. Effectiveness of erosion and sediment control activities in reducing soil loss. Source: James W. Cox, Division of Soil and Water Conservation.

by the airport authority. The local program rated highly in the division's program review. However, erosion control plans for the site were not reviewed due to confusion over the county's responsibility for the airport authority's project. Stormwater from the airport is inundating adjacent properties.

- The Floyd County park project, which was funded in part by a grant from the Department of Conservation and Recreation. The county park authority did not install adequate E&S control measures. In this case, the problem was resolved by the department's withholding payments until corrective measures were completed.
- A site in Augusta County, which has a highly rated program. However, the county did not hold a bond to assure completion of E&S control improvements, and the developer filed for bankruptcy. The county brought an action to enforce its program, but the case was dismissed at trial on grounds that the local ordinance was defective because it had not been amended to reflect changes in the state erosion and sediment control law enacted in 1988.

Problems with the existing system identified by Mr. Cox include the absence of a method of automatic updating of local ordinances by reference to the state law (as exists with the state building code), inability to require localities to enforce their programs, and a lack of training of local officials. The subcommittee asked the division to categorize the types of complaints received and to recommend any changes to the existing law that would correct recurring problems.

Forestry

The state E&S control law excludes forestry from the scope of covered land-disturbing activities. The Department of Forestry has administered a nonregulatory program for silvicultural activities since 1988. State Forester James W. Garner described the department's E&S control program to the members of the subcommittee.

The program's objective calls for every logger to implement silvicultural best management practices (BMPs), which include installing water bars, stabilizing disturbed areas and maintaining streamside buffers. Every timber harvesting operation over five acres is inspected for compliance with BMPs. Though the department cannot penalize foresters for failure to use BMPs, it has successfully persuaded foresters to adopt them voluntarily. By focusing on changing attitudes through education, the program has changed foresters' behaviors. The department has entered into nonbinding memoranda of agreement, whereby 92 consulting firms and 51 major forest products companies have pledged to use BMPs.

He characterized the results as impressive. The department has exceeded its goals of reducing siltation by 10% between July 1988 and July 1991; the amount of reduction achieved was 14%. Other goals include a further reduction of siltation by 30% from the 1988 baseline levels by 1995, obtaining preharvest plans on 90% of logging projects by 1995, implementing educational programs, and monitoring and evaluating the effect of BMP implementation on water quality.

Mr. Garner noted that a small percentage (two to three percent) of loggers and landowners have failed to cooperate with the department's voluntary BMP implementation program. These few, who lack the appropriate stewardship ethic, can undercut competitors who have implemented BMPs, and legislative measures may be necessary to create a level playing field for all foresters.

Highway Projects

The Virginia Department of Transportation (VDOT) has had a siltation program in place since the 1950s, although it was implemented as a means to save money by avoiding the need to regrade roadway beds rather than to protect the environment from erosion and siltation. Upon the passage of the erosion and sediment control law in 1973, the department introduced the Division of Soil and Water Conservation's standards into its specifications and standards.

Earl T. Robb, state environmental engineer at VDOT, described the department's four-stage policy of controlling erosion and siltation. Whenever possible, E&S control plans attempt to avoid siltation by preventing soil from leaving a construction site and entering a waterway. If siltation cannot be avoided, its impact is minimized. Where damage occurs, it is mitigated by restoration of the site. Finally, where mitigation is not possible, the environment should be compensated for any damage by, for example, creating replacement wetlands.

The erosion and sediment control law provides that land-disturbing activities undertaken by VDOT and other state agencies are exempt from the plan-approval requirement of local E&S control programs. The department and other state agencies must receive the approval of the Division of Soil and Water Conservation for specifications annually or for conservation plans for each project. The department's road construction contracts contain requirements that E&S control measures be implemented.

If a road contractor fails to follow an approved E&S control plan during construction, VDOT project inspectors can shut down the job. The department can perform any required erosion control measures and charge the cost of the work against fees due to the contractor. In addition to inspection by VDOT personnel, division employees are involved in re-

viewing plans and inspecting projects. A helpful policy implemented by VDOT prohibits a contractor from disturbing more land than will be controlled within the following 30 days.

Tools and techniques utilized by VDOT to prevent erosion and sedimentation in construction projects were described by Mr. Robb. The department's concern for limiting the environmental impact of roadway construction projects was made evident to the subcommittee. Mr. Robb conceded that there is a continuing erosion and siltation problem with unpaved secondary roads and acknowledged that the problem will continue until funds for paving and making other improvements to these roads become available.

Soil and Water Conservation Districts

The division of duties and responsibilities within Virginia's erosion and sediment control program involves not only the state and local government, but also soil and water conservation districts, which are political subdivisions of the Commonwealth. Moreover, the role of the districts in the implementation of local E&S control programs varies widely. George Beales, a member of the board of district directors of the Tri-County/City Soil and Water Conservation District, explained the involvement of districts in E&S control programs and in implementing agricultural E&S control measures.

There are 45 soil and water conservation districts within Virginia. The boundaries of a district may be coterminous with those of a single locality or may encompass as many as five localities. Districts are led by a board of directors comprised of a combination of locally elected members and appointees designated by the Virginia Soil and Water Conservation Board. Districts receive funds from the Division of Soil and Water Conservation, local governments, and the U.S. Department of Agriculture's Soil Conservation Service (SCS).

In some jurisdictions, the district is responsible for approving erosion control plans and performing inspections. In others, the district reviews plans and makes recommendations to local officials. In the one jurisdiction without a local E&S control program (Buchanan County), the district has total program administration authority. In several localities, the district plays no role in the local E&S control program.

The largest part of a district's workload is helping farmers. Districts administer agricultural BMPs cost-share programs. In jurisdictions subject to the Chesapeake Bay Preservation Act, districts are responsible for developing, approving, and overseeing implementation of the agricultural water quality plans. Enforcement of the agricultural regulations is the responsibility of the locality, not the district. Districts work with the SCS and the Agricultural Stabilization and Conservation Service in implementing the provisions of the federal 1985 Farm Bill relating to erosion control.

In addition, soil and water conservation districts work under memoranda of understanding with the USDA, the Department of Forestry, and localities on various projects. Education programs aimed at expanding the implementation of conservation measures are also a major duty of districts.

Mr. Beales noted that the exact role of soil and water conservation districts can be confusing, if not nebulous. Members of district boards of directors have expressed the desire that they have the authority to resolve erosion and sedi-

mentation problems, but in their current role as providers of technical assistance and education, they are not in a position to assume enforcement authority.

Public Hearing

Following the business meeting, the subcommittee conducted a public hearing at the Convocation Center at James Madison University. Harold Weikle, assistant director of water production for the City of Salem, described the effect of soil erosion on water treatment plants. A high degree of suspended particles, or turbidity, in raw water increases the costs and the time required to treat water. The city traced the increased sediment in its water source, the North Fork of the Roanoke River, to soil erosion from developments in upstream jurisdictions.

Residents of Roanoke County described their problem with inadequate enforcement of the local erosion control program. They complimented personnel of the Division of Soil and Water Conservation for their assistance. However, their problem has not been solved because the division cannot require the locality to take enforcement actions to ensure compliance with its E&S control program.

The joint subcommittee will hold its next meeting and public hearing on September 24 in Danville.

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The Honorable W. Tayloe Murphy, Jr., *Chairman*
Legislative Services contact: Franklin D. Munyan

HJR 107: Blue Ridge Economic Development Commission

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August 17, 1992, Lynchburg

In order to receive comments on the economic development needs and achievements of the Blue Ridge region, the commission held a public hearing at Central Virginia Community College on August 17. Economic development officials from throughout the Blue Ridge area attended the meeting, seeking the support and assistance of the commission and providing information on their specific marketing and economic development programs.

Regional Economic Development Needs

The economic development officials pointed out that Virginia, unlike a number of states, does not have a strong incentive plan to attract new industry or encourage expansion of existing ones. Several commission members

noted that the deal-closing fund, enacted by the legislature in 1992, should help to address this concern.

Many of the smaller localities stressed their reliance on the marketing division of the Department of Economic Development (DED). Since these localities do not have the capital to mount any type of advertising campaign, the department's advertising effort is the locality's advertising effort. Yet, due to budget constraints, DED advertising has been virtually nonexistent, according to these localities.

Several of the larger localities emphasized the importance of having adequate resources and infrastructure in place to support industrial growth and development. Prepared industrial sites and shell buildings aid in the attraction of industrial prospects. Regional cooperation is also important, because, in reality, if a neighboring community becomes the location for a new business, then surrounding communities also win. For example, people who work in Amherst County live in Campbell County and shop in Lynchburg.

A recurring theme throughout the presentations was the need for state financial assistance, especially the need for a financial program aimed

at start-up and small businesses, since these businesses are crucial to the economic development process of the Blue Ridge region. Between 1974 and 1980, 80% of all new jobs in the United States were created by businesses with fewer than 100 employees. Additionally, over the last 20 years, small businesses developed 24 times as many innovations per research dollar as did large firms.

Craddock-Terry, Inc.: A Success Story

Formed in 1888 as the largest shoe company in the South and the seventh largest in the United States, Craddock-Terry, Inc., has been an integral part of Lynchburg's and surrounding localities' economic development.

James S. Barrett II, president of Craddock-Terry, Inc., addressed the commission on his company's past history and recent revitalization. In 1985, the shoe manufacturer had seven factories in Virginia, employing 2,400 people. However, in 1986, an investor group paid \$40 million to take over the company. Approximately 18 months later, the company filed for bankruptcy, closed all of its factories and laid off all 2,400 employees.

The citizens of Lynchburg rallied to bring the company back to life by raising over \$3 million in equity. Subsequently, the company was awarded government contracts to manufacture shoes for the military, and on June 6, 1988, Craddock-Terry reopened its factory in Gretna. The Farmville factory reopened on August 22, 1988. A third and fourth plant were opened in 1989 and 1991, followed by a retail store. Craddock-Terry now employs 1,023 people, with 223 of those located in Lynchburg, and is the single largest contractor for government shoes. In 1991, the company posted sales of \$55 million.

This example of economic recovery and revitalization demonstrates what a locality can do when it bands together to save its economic base. The economic impact of Craddock-Terry on the Lynchburg area was, and is, significant, and the citizens realized the importance of sustaining that positive impact.

Western Virginia Leadership Conference

On September 29, 1992, the Blue Ridge Economic Development Commission will co-sponsor the Western Virginia Leadership Conference, focusing on strategic development in Western Virginia. This conference will be held at the Sheraton Airport in Roanoke.

There are four specific issues to be addressed at the conference:

- Managed growth, concentrating on land use, transportation and the environment;
- Work Force 2000;
- Tourism development; and
- Child care.

The conference will provide a forum for information sharing and dialogue regarding these issues, and participants will be encouraged to formulate recommendations for actions to address the concerns of the region.

Future Meetings

The commission scheduled its next meeting, focusing on housing and the housing industry, for October 12 at Virginia Tech. The commission will also be meeting on November 10 at Dabney S. Lancaster Community College in Clifton Forge.

The Honorable Joan H. Munford, *Chairman*
Legislative Services contact: Edie T. Conley

HJR 180: Joint Subcommittee Studying Maternal and Perinatal Drug Exposure and Abuse

July 16, 1992, Richmond

The first 1992 meeting of the Joint Subcommittee Studying Maternal and Perinatal Drug Exposure and Abuse and Its Impact on Subsidized Adoption commenced with a review of the subcommittee's past work, including precedent-setting legislation in 1992 — HB 813 — and budget language and amendments relating to a statewide conference on perinatal drug exposure and the collection of birth certificate data on perinatal substance abuse.

HB 813

For the first time in the Commonwealth, HB 813 (Chapter 428, 1992 *Acts of Assembly*) established mechanisms for prevention of perinatal substance abuse, the early identification of drug-exposed children, and referral for appropriate medical and related support services.

Some important provisions of the law include a requirement that (i) the Secretary of Health and Human Resources develop criteria for enhancing the access of pregnant women to publicly funded substance abuse treatment programs; (ii) regulations of the Board of Health mandate the development and implementation by all licensed hospitals of a protocol requiring written discharge plans for identified, substance-abusing postpartum women and their infants; (iii) the Department of Mental Health, Mental Retardation and Substance Abuse Services promulgate regulations to ensure that licensed substance abuse treatment programs develop policies and procedures for timely and appropriate treatment for pregnant substance-abusing women; and (iv) all practitioners licensed to render prenatal care establish and implement a medical history protocol for screening pregnant women for substance abuse to determine the need for a specific substance abuse evaluation, referral for treatment, if necessary, and to provide information on the potential for poor pregnancy outcomes from substance abuse.

Data Collection

Pursuant to Item 301 of HB 30 of 1992, a confidential data collection system, utilizing birth certificate forms, will be implemented by the Department of Health, and funding is provided for training on the new birth certificate forms.

Conference Plans

Dr. Paul E. Mazmanian, director of the Department of Medical Education, Virginia Commonwealth University, presented a status report on the plans for the conference on perinatal substance abuse to be held on October 23 and 24 in Richmond. The conference will be presented by the joint subcommittee and the Office of the Governor. The two-fold purpose of the conference is to forge understanding and long-term working relationships between the many disciplines working with substance abusing women and their children. Financial restraints require conservation and development of resources; therefore, the joint subcommittee will encourage improved regional and local collaboration through interaction among the existing Virginia programs. The conference will feature an address by Dr. Ira Chasnoff, a nationally known expert on perinatal addiction, and will also include a short teleconference spotlighting three innovative state programs: the Sober Living Unit in the Alexandria City Jail, the Albemarle County Project Link, and the Center for Perinatal Addiction at the Medical College of Virginia.

Adoption and Foster Care

Brenda Kerr, adoption policy specialist, Department of Social Services, described the status of adoption and foster care in Virginia. A lengthy discussion ensued concerning "kinship care" and issues involving substance abuse and its relationship to child abuse and neglect.

Contraception

The joint subcommittee also received a presentation on Norplant, an implantable contraceptive, from Grace Sparks, executive director of Planned Parenthood of Richmond. Much discussion on the availability and cost of this device in local health departments and to non-Medicaid eligible women led to a request for further information on this matter. Norplant is viewed among health care providers as a potentially effective contraceptive for substance abusing women of childbearing age because of its long-term ability to prevent pregnancy and its convenience.

Next Meeting

Plans for the September 11th meeting of the joint subcommittee include a joint meeting with the Project LINK State Advisory Committee.



The Honorable Marian Van Landingham, *Chairman*

Legislative Services contact: Brenda H. Edwards

SB 506: Essential Services Panel

August 4, 1992, Richmond

The third meeting of the Essential Health Services Panel opened with a review of the previous meeting and the revised study plan.

Canadian Program

During a brief discussion of the Canadian Health Insurance program, the components of this system were described: all residents are covered for necessary physician and hospital care; each province administers the program for its residents; direct patient payments to providers are prohibited; no copayments or deductibles are allowed; physicians' fees are negotiated annually; and lump-sum budgeting and controls on acquisition of technology mean lower administrative costs for hospitals.

The provincial programs must comply with five conditions: (i) universal coverage for all legal residents; (ii) comprehensive coverage of all medically required services; (iii) reasonable access to services with no deductibles, copayments or additional fees; (iv) portability; (v) and public, nonprofit administration. Provider participation is not mandatory; however, because of the availability of free care, full-time private practice is seldom feasible.

Other Countries

Information on the health systems in France, Germany, and Japan was also provided, which indicated that health insurance coverage is nearly universal in these countries. They are somewhat like the American system in the following ways: free choice of physician, coverage obtained primarily through work, and coverage provided by multiple third-party insurers. However, the differences are dramatic:

- compulsory insurance coverage for all residents;
- negotiated, standardized reimbursement rates;
- national regulation of benefits (including physician services, hospital care, laboratory tests, prescriptions, and some dental and optical care) and premiums (mandatory employee/employer contributions based on the average cost of a large population cross section); and
- cost/budget controls.

Survey Results

As directed by the panel during the previous meeting, staff conducted and compiled the results of a Delphi survey of its members concerning services considered to be "essential." Ranking for the Delphi survey was based on the following relative value scale:

1. Essential/Every Virginian MUST Have
2. Essential/Every Virginian SHOULD Have
3. Very Important for Every Virginian
4. Valuable to Certain Virginians
5. Not Particularly Important for Most Virginians

The panel collectively reviewed and ranked those services receiving five or more rankings of 1 (MUST have) on the initial Delphi survey. The discussed services (five or more rankings of 1) were either retained on the essential/MUST-have list, moved out of the MUST-have ranking for further discussion, or designated for possible exclusion.

There were many different reasons for the panel's collective rankings. For example, some matrix services were considered to be included under retained broader categories, and certain terminology, such as maternity care/obstetrics, was deemed redundant (maternity care was retained). All provider/site specific services, such as optometry services and rural health clinic services, were marked for possible exclusion. This notation does not, however, mean that health services identified as essential could not be delivered by the specific provider or at the specific site. Further, some matrix services did not, in the judgment of the panel, meet the determinative principles tentatively established at the second meeting (see the *Legislative Record*, August 1992, page 2).

Staff was directed to conduct, prior to the August 18 meeting, a second-round Delphi survey of the panel, based on the its collective rankings during this meeting. In order to provide relevant information to parties interested in commenting on the essential services list at the August 18 meeting, staff was asked to distribute copies of the second-round materials. The panel also requested definitions of "medical emergency" and "inpatient hospital services" (consistent with Virginia Medicaid regulations).

August 18, 1992

The fourth meeting of the Essential Health Services Panel commenced with a review of its previous meeting and an overview of health insurance policies and plans in Virginia. The panel also heard the Board of Health's perspective on primary care.

Public Comment

Following these remarks, various representatives of business, insurance, consumer, and provider organizations and other interested parties testified on the panel's work. Many individuals noted the difficulty of the panel's task and the commitment the members demonstrate. Supportive comments were provided concerning the process and the need for this exercise in developing essential health services. Some opined that the system necessary to deliver the essential health services, once they are identified, is not in place. Statements concerning copayments, deductibles, and other means of limiting services and containing costs noted that, if a cost-effective administrative structure existed, such limitations might not be needed. Many individuals testified concerning

mental health services as essential services for the citizens of the Commonwealth. The panel members assured the presenters that mental health is as important as physical health and that the input of all knowledgeable individuals is needed in establishing priorities for these services.

Survey Results

The panel has completed the second-round Delphi survey and distributed the results. In September, the collective ranking of the matrix services will be continued. Staff has been directed to prepare a list of issues for discussion and to work with various groups to collect data on mental health and other services. A detailed summary of the comments received at this meeting will be prepared and disseminated in the September. Further meetings are planned throughout the fall.

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The Honorable J. Samuel Glasscock, *Convener/Moderator*
Legislative Services contact: Norma E. Szakal

HB 896: Water Loss Resulting from Deep Coal Mining

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July 17, 1992, Wise

The subcommittee of the House Mining and Mineral Resources Committee studying HB 896 held an informational meeting and a public hearing at Clinch Valley College, at which it was briefed on several aspects relating to deep coal mining and associated water loss. HB 896 requires mine operators to replace water supplies damaged by underground coal mining operations.

**Geology and Hydrology
of Southwest Virginia**

Lynne Haynes, geologist supervisor with the Division of Mined Land Reclamation (DMLR), described the geology and occurrence of groundwater in the southwest Virginia coalfields, the natural and man-made factors that affect that groundwater system, and existing regulatory requirements concerning groundwater. Rock formation in the coal-bearing region of southwest Virginia consist of layers of shales, siltstones and sandstones. Fractures caused by deformations in rock strata are the main conduit for groundwater. Groundwater in the region tends to be shallow (occurring at less than 300 feet) and roughly mirrors surface drainage patterns. Coal seams hold and transmit significant quantities of water. The seams

may be fractured naturally by stress-relief or the faulting and folding of rock (tectonic phenomena), or by underground mining methods.

The amount and quality of water will vary within the region depending on topography and the presence of coal seams. Generally, the lower the water zone, the more mineralized the water. The poorest quality water is associated with valley bottoms, which unfortunately have the greatest quantity of water. The plateau fracture-flow system is highly sensitive to continuous recharge from precipitation. From 1985 to 1990, DMLR received from 60 to 80 water loss complaints per year. Less-than-normal rainfall occurred from 1983 to 1987. Mr. Haynes stated that a drop in the number of complaints in 1991 and 1992 is probably attributable, in part, to increased rainfall recharging the groundwater in the past several years.

Effects of Mining on Hydrology

Mining operations may affect the occurrence and usage of groundwater in several ways. Conventional mining operations in ridges that employ secondary recovery techniques can create new fracture systems that drain water from the stress fractures to the mine void. Longwall operations under both ridges and valley floors can lower or drain the overlying system. In these cases, groundwater is not "lost"; it is usually lowered in elevation or redirected from its usual gradient.

DMLR uses two types of monitoring — representative and source — to determine whether mining operations have affected groundwater. Representative monitoring is used near the initial disturbance where existing water use or significant water zones may be affected. Source monitoring is used where mining operations may result in the production of acidic or toxic leachate.

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires that surface coal mining operations be designed and conducted so as to minimize impact on surface and groundwater systems. Initial regulations under Section 717 required water replacement for impacts from both surface and underground mining. However, Judge John Flannery ruled in 1980 that Section 717 applied only to surface mining. Regulations were amended to remove the requirement for replacement of water damaged by underground mining.

The pending federal energy bill, H.R. 776, would extend the water replacement requirement to all types of mines and require underground mine operators to replace individual water supplies. It is not known whether this session of Congress will reach final agreement on the bill.

Virginia Regulations

The Virginia Coal Surface Mining Control and Reclamation Act implements a state primacy program under SMCRA. The Department of Mines, Minerals and Energy has promulgated regulations that essentially duplicate federal regulations. Regulations require the definition of groundwater systems, the design of appropriate monitoring programs to assess hydrologic impacts due to operations, and the investigation of landowner complaints. As a condition to obtaining a permit, operators must submit data, including an evaluation of the probable hydrologic consequences (PHC), which looks at the effect of mining on the hydrology of the area.

DMLR investigates all complaints of water loss from both surface and underground mining. Since water replacement is not required for deep mining, the emphasis of investigations from deep mining is on the hydrologic impacts to the area rather than the effect on individual supplies. Due to the groundwater system in a coalfield, an impact on an individual could occur without an adverse hydrologic impact on the aquifer.

From 1981 to 1986, DMLR investigated 125 room-and-pillar deep mine water loss complaints, approximately 50% of which were classified as mining related. Of the 20 longwall water loss complaints during this period, 15% were classified as mining related. From 1986 to the present, an additional 125 complaints were received, but DMLR did not make a determination on impacts to the individual supplies. Over the past 10 years, 540 water loss complaints have been investigated by DMLR, of which 163 were alleged to be surface-mining related, and 377 were alleged to be deep-mining related. Mr. Haynes noted that this does not include all water loss cases, because many are resolved by agreement between the operator and the surface owner without involving DMLR.

Availability of Public Water in the Coalfield Regions

Simeon E. Ewing, director of the Southwest Virginia Office of the Center for Public Service, noted several problems with relying on the expansion of public water systems in the LENIWSICO and Cumberland Plateau planning district commissions as a solution to water loss problems. In most areas, public water is provided by cities and towns, and water service does not extend to surrounding portions of the counties. The need for public utilities is the main reason several towns in the region have recently been incorporated.

In many portions of the region, the cost of expanding water lines is prohibitive. The small and scattered populations in the region do not create

sufficient demand to justify the expansion of public water services. Creating new infrastructure would impose an unacceptable rate structure on the families that would be served. Where existing water systems have been built, they relied on federal and state funds that have not been available since the late 1970s. Government grants allowed authorities to build systems with low debt loads, resulting in acceptable rate structures. In many existing systems, depreciation is not being funded because citizens cannot afford the rate structure.

A potential problem with existing water systems is their reliance on groundwater, rather than river withdrawals. The state Health Department requires systems at 80% of capacity to look for expanded sources of water. Where significant development is occurring, expansion of service may be difficult because of the unavailability of new water sources. Also, older plants which do not meet federal safe drinking water standards are prevented from expanding into rural areas. Water systems that rely on groundwater run the same risks as those faced by individuals with private wells or springs.

A related problem is the need to address waste water treatment needs. As public water becomes available, water consumption tends to increase dramatically, and increases in the utilization of water may overload marginal septic systems. Soil conditions in many areas are not conducive to relying on septic systems for treating increased waste loads.

Litigating Water Loss Cases — The Surface Owners' Perspective

Absent statutory or regulatory requirements for water loss replacement, surface owners whose water supplies are impaired by deep coal mining must rely on their common law remedies. Walton Morris, an attorney in Charlottesville, described the existing tort law system from the perspective of surface owners.

The general rule under case law in Virginia holds a mine operator liable for damages to a water supply caused by removal of subjacent support. Two problems with Virginia law were noted. First, it does not protect surface owners within the angle of draw whose water is lost by mining unless the mining occurred under their property. Second, it does not protect surface owners if the severance deed included a waiver of the right of subjacent support.

Several practical obstacles also prevent many water loss cases from being litigated. The damages awarded tend to be relatively small. As a result, few attorneys are likely to take these cases. Damage awards often are not sufficient to provide alternative water supplies, and this results in the forced relocation of families. These cases are technically complex, and it is often difficult to prove that mining is the proximate cause of the water loss. Baseline information is frequently not available, so a hydrologist may not be able to prove that a change occurred. Preparation of a case is expensive. Mining progress maps are not publicly available. Without knowing whether an owner's land has been undermined, it cannot be determined whether the plaintiff has a cause of action. Few experts are willing to testify against coal companies, and those who do take citizens' cases charge high fees, which must be paid regardless of the outcome of the case. The coal industry is in better position than surface owners to bear the costs of complex and technically sophisticated litigation. Coal companies can delay cases for long periods of time. Preparing an expert's case for trial can take six months or longer, the attorney's preparation time is very significant, and court dockets are often crowded.

Mr. Morris opined that HB 896 would do two things to solve problems posed by the current tort law system. First, it establishes presumptions based on the angle of draw that would bring certainty to the process. The certainty regarding causation would reduce the need for expert testimony, thereby reducing litigation costs. It would benefit coal operators by allowing for solid planning and cost projections. Second, the proposed bill would remove delays by mandating prompt administrative action.

Mr. Morris conceded that there is some debate about the exactness of the angle of draw for water damage resulting from mining operations. HB 896 fixes the angle of draw at 41 degrees, which is the maximum extend acknowledged by technical literature. The mining operator may be able to rebut the presumption by proving that for a particular operation the angle of draw is less than 41 degrees. The presumption would shift the burden of establishing the angle of draw to the coal operator, who has greater resources to bear this burden.

The existing regulatory requirement that DMLR investigate water loss cases to deter-

mine if they are mining related does not, according to Mr. Morris, relieve surface owners of the burden of retaining experts to prove causation in most cases. In a large number of cases, DMLR's hydrologists cannot determine whether mining caused the water loss. Often, citizens fail to believe DMLR's findings that a water loss was not caused by mining and wish to challenge it in court. And many cases are not brought to DMLR's attention because the complaint process is unknown.

Legal Considerations in Water Replacement Legislation

James P. Jones, chairman of the State Board of Education and an attorney in Abingdon, advised the subcommittee of his views of HB 896 from the perspective of a practicing lawyer representing coal companies in water rights litigation. From his experience, most water loss claims by surface owners against coal companies are settled before a lawsuit is filed. Even when a coal company may have a good defense to a claim, settlement may benefit the company by avoiding expensive litigation and by preventing the diversion of time and attention of operating personnel. The cases that go to trial usually involve a failure to reach agreement in the amount of compensation.

In Mr. Jones' opinion, the existing legal system generally has handled the cases that do go to trial in a fair and economical way. The common law in Virginia provides that a landowner's only remedy for water loss is monetary damages for the diminution in value of his property, and replacement of water supplies is not available. In order to recover damages, a landowner must show that the water loss resulted from either (a) the disturbance of an established subterranean stream, the location of which the mining company should reasonably have known, or (b) subsidence caused by mining operations which broke the rock strata beneath the surface. In trials, DMLR personnel can testify as to the cause of the water loss at no expense to the surface owner. Occasionally the coal company defends a claim on the ground that its title documents contain a waiver of the right of subjacent support. Though he is aware of no available studies, his impression is that such broad deed waivers are rare in Southwest Virginia.

Mr. Jones disputed Mr. Morris' allegation that it is difficult to find expert witnesses willing to testify for landowners. Also, attorneys are willing to take these cases with their fees usually paid on a contingency basis. Mr. Jones cited a study showing that settlements in such cases ranged from \$5,000 to \$45,000.

Mr. Jones expressed a preference for continuing to allow the legal system to handle this type of case. He acknowledged that one defect of the current system is that monetary damages are the only remedy. He expressed concern with the presumption contained in HB 896 regarding the angle of draw. The bill creates a presumption, rebuttable only by clear and convincing evidence, that any water loss occurring with an angle of draw of 41 degrees from the boundaries of the underground mine workings create liability on behalf of any or all mine operators. There is a great deal of disagreement among scientists as to the angle of draw from underground mine workings, and the angle of draw is only one of the factors used by experts in forming an opinion on causation of a water loss. Other factors include the depth of wells, the history of other water loss, and mine conditions. Of the 13 coal mining states, seven have adopted water replacement laws, though none have created a presumption such as in HB 896.

Delegate Mims suggested that the subcommittee consider an alternate approach, which would allow a plaintiff to make a prima facie case by showing that he lost his water and that his well was located within a 41 degree angle of draw from mining operations. The burden of going forward would then shift to the coal company to rebut, by a preponderance of the evidence, the elements of the case. Mr. Jones agreed that such an approach would be preferable to the presumption created in HB 896, but noted that a roundtable group comprised of industry and citizens groups has attempted to come up with an administrative remedy in which DMLR would make a decision as to the cause of the water loss without relying on presumptions.

The roundtable negotiations underway at the Institute for Environmental Negotiations have addressed situations involving mineral severance deeds with waivers of the right of subjacent support. The coal industry representatives have indicated a willingness to give up the defense afforded by these broad form deeds. Mr. Jones noted that the Supreme Court recently held in *Lucas v. South Carolina Coastal Council* that a property owner was entitled to compensation where regulations deprived him of all economically viable use of his property. It is not clear whether the Lucas opinion would entitle coal companies to compensation if legislation deprives them their right to mine coal to which they were otherwise entitled under state law.

Policy Question in Formulating an Administrative Remedy

The final speaker at the informational meeting was Kathy Reynolds, assistant director for administration, Department of Mines, Minerals and Energy, who discussed the policy implications of an administrative water replacement law with respect to Virginia's existing program under SMCRA. The state program has primacy under the federal program, and tracks the federal program's requirements exactly. Requiring replacement of water supplies damaged by deep mining would break with this policy by going beyond what is required under federal law.

The first question the legislature might consider in implementing an administrative program is primacy of the state mine reclamation program. Two options include having a water replacement program as part of federal SMCRA program or having it be a separate, free-standing program. If it is required as part of the federal program in Chapter 19 of Title 45.1, existing mechanisms in law and regulations, including enforcement provisions, can be utilized to carry it out. If it is placed in the federal program, all the procedural processes must be as stringent as those required under federal law and regulations.

On the other hand, if a water replacement requirement is imposed as a separate program, none of DMLR's staff, equipment, and expertise that are funded under the federal program can be used for the program. However, a separate state program would give the General Assembly more flexibility in setting it up, because it would not be bound to follow provisions of SMCRA and its attendant regulations. A separate state program would result in duplication of much of the reporting and data-collecting requirements.

Public Hearing

Following the information meeting, the subcommittee conducted a public hearing, at which 23 citizens spoke. Many of the speakers recounted

tales of personal hardship resulting from the impairment of wells and springs. Some expressed concern that providing hook-ups to public water lines is not a satisfactory solution because they would have to pay for water that was previously free. No one spoke in favor of the current litigation system. Donald McCamey, chairman of the Russell County Water and Sewer Authority, reported that efforts to extend public water lines to scattered populations have not been successful because the water rates that would have to be charged are prohibitive. A few speakers suggested imposing a separate severance tax or reallocating funds collected from the existing severance tax to pay for water supply infrastructure. Charles Bartlett, a geologist, spoke as a scientist who testifies for surface owners in water loss cases. He rejected the angle of draw concept as meaningless and suggested that the General Assembly fund a detailed survey of one county to ascertain the scope of water loss problems. He also noted that resolution of water loss cases often takes four to six (and as many as nine) years.

Dink Shackelford, executive director of the Virginia Mining Association, and Thomas Hudson, president of the Virginia Coal Association, submitted written statements subsequent to the public hearing. Mr. Shackelford proposed setting up an authority (similar to the Coalfield Economic Development Authority), funded from the present coal severance tax and taken from the existing coal haul road fund, to repair and develop water systems. The moneys could be used as matching funds to help secure grants, and could produce a systematic, comprehensive, planned approach that would provide for the growth and development of the region. Mr. Hudson noted that concerns with water loss should be tempered by the fact that coal is the economic lifeblood of Southwest Virginia, and that the coal industry can ill afford costly legislation. He urged the subcommittee to reject the presumption of liability based on the angle of draw as proposed in HB 896.

Chairman Quillen suggested that the subcommittee reconvene in a month to look at options for providing water for people who have already lost water, and to discuss possible legislation to require replacement supplies in future water loss cases.



The Honorable Ford C. Quillen, *Chairman*
Legislative Services contact: Franklin D. Munyan

HJR 71: A.L. Philpott Southside Economic Development Commission

August 21, 1992, Farmville

At the second 1992 meeting of the commission, William Dorrill, president of Longwood College, described the three proposed general obligation bond issues to be placed on the November 3 ballot.

The construction projects from these bond issues will generate an estimated 3,600 new jobs in the private construction industry and approximately \$22 million in additional tax revenues. The higher education bond issue will support 95 projects: 59 for additional student and faculty space, 27 for renovations of existing facilities, and nine for infrastructure improvements. Southside projects included in the higher education bond issue include the A.L. Philpott Manufacturing Research Center at Patrick Henry Community College, renovations at Longwood College, and projects at Paul D. Camp, Danville, and Southside Virginia Community Colleges. Among the six mental health projects are improvements at the Piedmont Geriatric Center at Crewe.

The parks and recreation bond issue includes \$19 million for projects in Southside. Commission members cited the merits of the bond issues but expressed concern for future funding for Route 58 as rising Medicaid and corrections costs place greater demands on the Commonwealth's budget. The commission ultimately endorsed the three proposed bond issues, subject to the approval of a majority of the absentee commission members (staff polling of these members confirmed the commission's endorsement).

SVBEC

Robert Meredith, chairman of the Southside Virginia Business and Education Commission (SVBEC) and labor relations manager for Union Camp in Franklin, described the work of the SVBEC, which focuses on the educational component of economic development, increasing dialogue between business and education. A \$50,000 annual legislative appropriation for the SVBEC will supplement a \$20,000 grant from the Center on Rural Development. The SVBEC is in the process of hiring

an executive director. Consisting of 21 members, the SVBEC is charged to provide "general leadership" in education in the region. The SVBEC has hosted a business and education forum in March of this year and continues to refine its plans and goals through its subcommittees. The SVBEC will also examine the need for additional engineering programs in higher education and will monitor and coordinate with area efforts to create a Southside Governor's School.

Governor's School

A proposed Governor's School for Global Economics and Technology was then described by Richard Layman, regional service representative, Department of Education, and Dorothea Shannon, superintendent of Greensville County Schools. Thirteen Southside school superintendents support a coalition to create this school, which would receive greater state funding as a Governor's School than as a magnet school. The proposed school would incorporate telecommunications to transmit special courses to regional sites, thereby increasing access to advanced educational opportunities for gifted Southside students. The school would apply integrated learning systems and incorporate several disciplines through data access, electronic telecommunications, and distance learning.

Using a "global focus," the school would offer study in economics as well as languages, math, and science. Current plans call for students to travel to four regional sites, no more than one hour from the home high school, for a half day of study. Students would be chosen based on an equalized average daily membership. Students would return to their home schools for extracurricular activities and other course work. A planning committee has submitted its proposal for \$486,000 in funding to the Board of Education. The Governor's School will be competing with many other education programs for funds. It is hoped that the program will be implemented in fall 1993, using sites at area institutions of higher education.

Work Force Training

B. Carlyle Ramsey, president of Danville Community College, described "Southern Virginia 2000," a plan for strengthening the region's 21st century work force. A proposed consortium of public and private agencies and educational institutions would focus on the coordinated delivery of work force training and education in the Southside region. The consortium would develop a comprehensive plan to train area workers by identifying training needs, establishing a regional training and employment network, and improving coordination between education and business. Funding might be based on existing federal moneys, such as those derived from the Job Training Partnership Act (JTPA) and other sources. The Chairman urged coordination between the consortium and the SVBEC.

Teacher Recruitment

Richard Greig, superintendent of Lunenburg Public Schools, described teacher recruitment and retention challenges in special education,

minority, and male teachers for Southside. Dr. Greig recruits not only Virginia education students but also those from colleges in neighboring states; noncompetitive salaries often hamper these efforts. He suggested the establishment of a superintendent consortium to "brainstorm" about recruiting efforts. Filling vacancies created by teacher retirement, rather than by termination or resignations, was cited as a great concern. James Blevins, superintendent of Nottoway Public Schools, echoed many of these concerns, describing an extremely large turnover in the last two years. He suggested increased hiring of individuals over age 55, retirees from other careers, as a possible solution to the recruitment problem. Dr. Shannon cited retention as a specific problem, noting teachers who, having benefited from continuing training, leave the school division for other employment. Ned Carr, deputy superintendent for administration, Department of Education, described his experience as a former assistant superintendent for personnel in Fairfax County, including the pay-for-performance program. Fairfax experienced a four percent turnover rate due to low performance evaluations during his tenure. He pledged the efforts of the Department of

Education to examine the recruitment and retention issue in rural and small school divisions and to coordinate with the SVBEC in conducting its study.

Next Meeting

Members agreed that the September meeting would focus on environmental regulation and permitting issues as well as potential final recommendations. A joint meeting with the Commission on Health Care is planned for October.

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The Honorable Whittington W. Clement,
Chairman

Legislative Services contact: Kathleen G. Harris

Subcommittee on the Toms Creek Energy Project of the Coal and Energy Commission

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July 6, 1992, Richmond

In September 1991 the Department of Energy (DOE) awarded a \$110 million grant to TAMCO Power Partners to build a coal gasification and electrical power plant at Toms Creek mine in Wise County. TAMCO, a partnership comprised of Coastal Power Corporation and Tampella Power, risks losing the DOE grant unless it enters into an agreement with a utility company for the sale of the electricity to be generated at the plant. At the time it applied for the DOE grant, TAMCO intended to sell its power to Virginia Power, which had projected a robust forecast for power needs.

However, Virginia Power revised its forecast in 1992 to reflect a decline in the need for base load capacity. James Rhodes and Larry Ellis of Virginia Power reported to the subcommittee that reduced load growth, load management and conservation efforts, an exchange agreement with Appalachian Power, and the proposed interconnection with Appalachian Power have resulted in a decline in Virginia Power's anticipated need for new capacity by 1999 from 2,000 to 600 megawatts (MW). Moreover, the additional 600 MW of capacity needed by 1999 will be for combustion turbine "peaking" facilities fueled by natural gas or oil rather than for coal-burning base load facilities. Accordingly, Virginia Power has concluded that it does not have a need for the 186 MW of base load capacity that would be provided by the Toms Creek project.

Several members questioned Virginia Power's position. The amount of power from this project is about one percent of the utility's total capacity. Existing contracts for the purchase of 900 MW annually are scheduled to expire at the end of the decade. Moreover, the pessimistic forecast for load growth is based on a continuation in the economic slowdown, and an economic turnaround could leave Virginia Power with a shortage of

capacity. Virginia Power responded that its present reserve margin is more than adequate and that buying additional capacity creates the risk that the utility may be charged with imprudence.

The second barrier to Virginia Power's purchase of power from the Toms Creek project is its price. TAMCO asserts that the 186 MW from its plant are competitive with the cost Virginia Power would pay for a new pulverized-coal, base load facility satisfying all projected environmental regulations. The utility countered that the cost of the Toms Creek power exceeds both its avoided energy and capacity costs and the cost of power from a new pulverized coal facility, even after factoring in the \$110 million DOE grant. In addition, Virginia Power expressed concern that contracting to buy TAMCO's power outside of its competitive bidding process would be inappropriate.

Delegate Quillen noted that the \$110 million grant awarded to TAMCO by the federal government constitutes a special circumstance, justifying Virginia Power's going outside of its competitive bidding process to buy the Toms Creek power. Dr. Rhodes said that if the Gen-

eral Assembly made a public policy decision that Virginia Power should buy the power, it would do so, although it would not be in the best interest of the utility's ratepayers.

Alternatives to Virginia Power's contracting to buy the Toms Creek power include amending the existing power purchase contract for the LG&E facility in Buena Vista by relocating the site of the plant to Toms Creek and acquiring an interest in a case in arbitration at the SCC. Virginia Power has contracted to buy approximately 55 MW from the facility planned for Buena Vista; Virginia Power will allow the contract to be assigned to TAMCO and amended to allow the plant to be built at Toms Creek. Virginia Power indicated it would not amend the provisions in the contract setting the amount or the price of the power. The Tellus and Smith arbitration cases involve power plants that may have a legal right to sell their power to Virginia Power under Public Utilities Regulatory Policies Act of 1978 (PURPA) rules, which predated the SCC's implementation of competitive bidding. The SCC is arbitrating the issue of the price that must be paid for the power. Although Virginia Power has indicated it has no need for the power to be generated from the cases in arbitration, TAMCO may be able to require the utility to buy its power if it can acquire the rights of a party in an arbitration case.

TAMCO stressed the importance of resolving the power purchase agreement issue quickly. The subcommittee was advised that a cooperative agreement between DOE and TAMCO is to be signed by August 15. The agreement will then be sent to Congress, where it must remain for 30 session days and, if no objections are made, can be signed by Energy Secretary Watkins at the end of September.

TAMCO and Virginia Power were encouraged to press on in their negotiations, and to report to the subcommittee in a month on any progress.

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August 5, 1992, Roanoke

The Toms Creek project subcommittee's second meeting preceded a meeting of the full Coal and Energy Commission. In response to Chairman Thomas' letter of July 17, 1992, requesting that the SCC and Virginia Power grant 90-day extensions on any deadlines for the Buena Vista power purchase contract or the Tellus arbitration case, Virginia Power agreed on July 23 to delay the deadline for the start of construction only if negotiation resulted in the Buena Vista project's being relocated to Toms Creek. The SCC Commissioners had issued an order deferring the Tellus arbitration case until September 20 prior to receiving Chairman Thomas' letter.

Clark Burley of Coastal Power presented data on the discrepancy between its figures and those generated by Virginia Power on the comparative costs of the 186 MW Toms Creek project and a new pulverized coal facility. Coastal contended that Virginia Power's analysis is inaccurate because it includes coal escalation costs in excess of the 2.5% maximum escalation rate proposed by Coastal, it fails to include \$500 million in the cost of environmental controls that would be required on a new pulverized coal facility to meet current air emissions regulations, and it reflects a discount rate based on short-term capital costs rather than a 12% discount rate more appropriate for long-term analysis. After factoring in these discrepancies, Coastal concluded that the total costs of service over a 40-year period for its 186 MW project would be cheaper than a new pulverized coal base load facility. Moreover, when operated above 70 to 75% of capacity, the leveled cost of the TAMCO power would be lower. Over a period from 2000-2039, a new pulverized coal base load plant would cost \$8.1 billion, while TAMCO's plant would cost \$6.8 billion.

Larry Ellis of Virginia Power did not agree with Coastal's figures, and noted that Coastal had not presented these figures prior to the meeting. The subcommittee recommended that the staff of the SCC conduct an analysis of cost figures to be provided by both Coastal and Virginia Power. In order to give the SCC staff time to collect and review the data without impairing the positions of parties under existing contracts, the subcommittee requested that Virginia Power extend the deadline on the contract for the Buena Vista project for a period of 90 days. Mr. Ellis stated that Virginia Power would comply with this request.

Virginia Power noted, however, that even if the SCC analysis supports Coastal's conclusion that Toms Creek power is cheaper than power from a hypothetical new pulverized coal plant, Virginia Power would not be willing to buy the power absent an order of the SCC or an act of the legislature, because it does not need the power and does not want to buy capacity outside of its competitive bidding process.

The subcommittee indicated that it will continue its consideration of the Toms Creek project upon completion of the SCC's analysis of the costs of the power projects.

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The Honorable A. Victor Thomas, *Chairman*
Legislative Services contact: Franklin D. Munyan

HJR 74: Commission to Stimulate Personal Initiative to Overcome Poverty

July 21-22, 1992, Norton

August 12-13, 1992, Alexandria

From the coalfields of the Southwest to the urban corridors of Northern Virginia, witnesses appearing before the Commission to Stimulate Personal Initiative to Overcome Poverty reiterated their desire to remove themselves from welfare dependency. Citing past mistakes, unfortunate circumstances, and lack of opportunities, hundreds of individuals offered the same plea — give most persons the education and training, temporary financial assistance, and transitional services, and they will respond by becoming self-sufficient. Since most of these programs exist now, the speakers ascribed the problem to the breakdown in communication between and within state and private agencies, the lack of sufficient funding to provide for transition, and the dearth of available jobs when training is complete. Housing, health care, child care, offender release services, education, and transportation, among other services, comprise the well-documented needs, but the problem revolves around access to these necessary services.

Economic Realities

In order to deal with these issues, commission subcommittees continue to identify how the system can respond within a framework of worldwide economic realities. For example, to address employment issues, there is a need to define “full employment economy” and a “living wage” that allows persons to purchase such necessities of life as housing, food, and health and child care. A comprehensive vision of Virginia’s economy (i) recognizes the effects of U.S. and world economies, (ii) is defined in the context of history, (iii) is grounded in an understanding that our economy is not homogeneous but composed of regional variations, and (iv) recognizes that government has the responsibility to facilitate the creation and maintenance of jobs by the private sector. Recommendations currently being examined include defining poverty; describing the government’s role in aiding job creation and maintenance; and developing tax, regulatory, procurement, and economic development policies.

Health Care

To address the needs of individuals and families, a number of issues have generated attention. Paramount among them is health care. According to the Joint Commission on Health Care, 992,000 Virginians remain uninsured for health care, of which 54% are employed full-time. Eighteen percent of those uninsured have incomes of over \$50,000. While the number of uninsured continues to escalate, hospitals in the state maintain

an occupancy rate of approximately 54%. Impediments to health maintenance include insufficient perinatal and pediatric services, lack of health promotion and disease prevention activities, and high teen pregnancy rates. Citing prevention as a major emphasis, speakers maintained that health issues, both physical and mental, depend upon self-esteem as well as the educated ability to make personal health and life decisions for oneself and family; hence, literacy and community involvement remain important components of the process.

Coordinated Services

The common thread among the work of all subcommittees is the concept of creating a positive self-image in every Virginian through early intervention and prevention. While recognizing that some individuals will never achieve self-sufficiency and that programs will always be needed to address their needs, a “holistic” focus on the broad range of needs of the population in poverty should recognize that available services must be complementary and coordinated between the public and private sectors.

Next Meeting

The commission continues its public hearings and meetings around the state, with the next one scheduled for the Eastern Shore and Newport News on September 29 and 30, 1992.

The Honorable Donald S. Beyer, Jr.,
Lieutenant Governor, Chairman

Legislative Services contact: E. Gayle Nowell

HJR 173: Joint Subcommittee Studying Virginia's Statutes of Limitations and Rules for Accrual in Civil Actions

August 18, 1992, Richmond

The second meeting of the joint subcommittee focused on the draft legislation circulated to all interested persons in late July. The major provisions of the draft discussed were: (i) adoption of a two-year limitations period applicable to all actions for personal injuries (e.g., bodily injury, psychic injury, etc.), including medical malpractice and wrongful death, and for defamation and fraud, (ii) adoption of a five-year limitations period for all other civil actions, unless specifically provided otherwise, (iii) creation of a new tolling provision to prevent the applicable limitations period from running during any period when fraud or intentional misrepresentation or concealment of a material fact prevented discovery of the injury or damage or discovery of the causal connection between the alleged wrong and the injury or damage, (iv) adoption of a discovery accrual rule to provide that where the injury or damage was not reasonably discoverable on the date sustained, the applicable limitations period does not begin to run until the injury or damage is discovered or reasonably should have been discovered had the plaintiff exercised due diligence, and (v) creation of a pre-trial procedure for determining the timeliness of an action.

Pre-Trial Procedure

The pre-trial procedure was initially discussed and tentatively recommended by the joint subcommittee created in 1988 to study these same issues. It was proposed as a tool to expedite trials in which the action allegedly accrued under a discovery rule. Rather than go to the time and expense of a lengthy trial only to have the case dismissed at the end because the statute of limitations had expired, the procedure was intended to allow either party to request a judicial determination of the issue up front. The committee discussed at great length whether to expand the availability of the procedure to all civil cases, limit its availability to only cases accruing under a discovery rule, or eliminate the provision from the draft. It was decided that the provision should be eliminated from the draft.

There was considerable concern that such a procedure would not have the desired result. In many cases the evidence and witnesses bearing on the limitations issues would be identical to those required on the issue of liability. If the limitations issue were not dispositive of the case, two trials would be held instead of one. In addition to the delay, many members were concerned about the increased cost to the parties and the increased demands on the judge's time. The committee determined that creation of such a procedure was not required and, in light of these concerns, probably not desirable.

Dual Limitations Periods

The proposed dual limitations periods were discussed at great length. At the last meeting, the committee had agreed that "personal injuries" would include bodily invasions as well as emotional harms, such as pain and suffering. Staff asked for guidance on what other types of nonphysical harms should be made subject to the two-year limitations period. It was noted that under current law, damages for emotional trauma may be recovered only if the injury was intentionally inflicted. Also, the question was raised whether malicious prosecution and false imprisonment, for example, should be subject to the two- or five-year limitations periods. These actions currently are subject to the one-year limitations period under § 8.01-243. A physical injury or intentional wrong need not be involved; these types of claims involve infringements of legally protected rights and interests.

The committee asked staff to further refine this proposal for consideration at the next meeting. Because of continued concern whether dual limitations periods would provide the desired certainty, it was also agreed that the committee would revisit the unitary limitations period at the next meeting.

Public Comment

Finally, public testimony was heard on the discovery accrual issue and in opposition to the proposed increase and expansion in the repose provision governing contractors (§ 8.01-250). The Virginia Medical Society and the Virginia Hospital Association asked that the committee retain the law without substantive change as it currently governs medical malpractice claims.

Next Meeting

The committee will meet again in mid-October. Staff will prepare two comprehensive alternative drafts for consideration at that meeting.

The Honorable Bernard S. Cohen, *Chairman*
Legislative Services contact: Mary P. Devine

HJR 106: Joint Subcommittee Studying the Virginia Public Procurement Act

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August 4, 1992, Richmond

At the initial meeting of the Joint Subcommittee Studying the Virginia Public Procurement Act (VPPA), representatives from five of the Commonwealth's public universities addressed the subcommittee regarding their procurement needs and the purchasing problems they are currently encountering. They expressed concern over three problem areas that arise in their mandated dealing with Virginia Correctional Enterprises (VCE) and Virginia Industries for the Blind (VIB):

- Price — VCE and VIB prices are not competitive with the private sector's prices;
- Quality — goods produced by VCE and VIB are not as good as those produced by the private sector; and
- Service — deliveries by VCE are not made in a timely manner and the flow of information is slow or nonexistent.

Each of the educational institutions gave specific examples, such as furniture upholstered incorrectly, deliveries delayed, and computer software prices that far exceed those of their college bookstores. VCE received the most criticism at the meeting, and representatives from that organization, as well as VIB and the Department of Information Technology (DIT), have been invited to speak at the next meeting of the subcommittee.

Thomas M. Deadmore, of the Division of Purchases and Supply (DPS), addressed the educational institutions' concern with his agency, which primarily involves the use of mandatory state contracts. A number of the institutions would prefer optional, rather than mandatory, use of state contracts. These institutions maintain that they can purchase goods at lower prices and with faster delivery if they purchase outside of the state contracts, especially with purchases of computer hardware and software, which are regulated by DIT, not DPS.

DPS enters into state term contracts for goods when standardization and the consolidation of requirements into a single contract will result in reduced administrative effort and lower costs. The contracts are mandatory for use by state agencies with certain exceptions, such as purchases below

or above specific dollar limits. However, if an agency or institution needs a product exceeding the quality or performance of the contract item, or requires one that is of a lesser quality or capability, an exception may be requested. Exceptions are granted on a case-by-case basis.

According to two recent surveys conducted by DPS, if state term contracts were made optional, and educational institutions established their own contracts for the same goods, volume on state contracts would be reduced. This reduction would cause an increase in prices and in procurement and contract administration costs for the Commonwealth.

Thus, DPS recommended to the subcommittee that the status quo be maintained, with increased emphasis placed on making contracts more user friendly and responsive to user input.

The next meeting of the subcommittee will be September 24 at 1:30 p.m. in House Room C of the General Assembly Building in Richmond. The subcommittee's third meeting has been scheduled for October 22 at 10:00 a.m. at the Squires Student Center at Virginia Tech.

◆
The Honorable Joan H. Munford, *Chairman*
Legislative Services contact: Edie T. Conley

Legislative



Division of Legislative Services
910 Capitol Street, 2nd Floor
Richmond, Virginia 23219

The Legislative Record summarizes the activities of all Virginia legislative study commissions and joint subcommittees. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.

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The Legislative Record is also published 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 published as a separate section at the beginning of each issue of the Virginia Register.

DEPARTMENT OF LABOR AND INDUSTRY

† Notice to the Public

The Safety and Health Codes Board adopted the following Federal OSHA Standards at its meeting on August 25, 1992:

1. **Corrections to Process Safety Management of Highly Hazardous Chemicals, § 1910.119, and to the Amendment to Explosives and Blasting Agents, § 1910.109.**

Effective date is November 15, 1992.

2. **Amendment to the General Industry and Construction Industry Standards for Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, §§ 1910.1001, 1926.58; Final Rule; and Correction to § 1926.58.**

Effective date is November 15, 1992.

3. **Revocation Asbestos Standard for Nonasbestiform Tremolite, Anthophyllite and Actinolite, § 1910.1101.**

Effective date is November 15, 1992.

4. **Corrections to the General Industry Standard for Occupational Exposure to Formaldehyde, § 1910.1048.**

Effective date is November 15, 1992.

5. **Correcting Amendments to the General Industry Standard for Air Contaminants, § 1910.1000.**

Effective date is November 15, 1992.

6. **Corrections to the Occupational Exposure to Bloodborne Pathogens, Final Rule, § 1910.1030.**

Effective date is November 15, 1992.

7. **Correcting Amendments to Update Addresses for**

Obtaining Technical Manuals in the General Industry Standard for Occupational Exposure to Hazardous Chemicals in Laboratories, § 1910.1450, and General Industry Standard for Standards Organizations, § 1910.1500.

Effective date is November 15, 1992.

The Safety and Health Codes Board also adopted the following regulations at its August 25, 1992, meeting:

8. **Amendment to Regulation Concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permits Fees (VR 425-01-74).**

Effective date is November 15, 1992.

9. **Regulation for Asbestos Emissions Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos Containing Construction Wastes, incorporating the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) Final Rule: 40 CFR §§ 61.140, 61.141, 61.145, 61.146, 61.148, 61.150, except for subsection (a)(4), 61.154, except subsection (d), and 61.156 (VR 425-03-85.61).**

Effective date is November 5, 1992.

Contact person for further information: John J. Crisanti, Director of Office of Enforcement Policy, (804) 786-2384.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our 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 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

General Notices/Errata

23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION -
RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE
OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT of PLANNING AND BUDGET
(Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

ERRATA

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-01-49. Aid to Families with Dependent Children - Disqualification for Intentional Program Violations.**

Publication Date: 8:23 V.A.R. 4218 August 10, 1992.

Correction to emergency regulation:

Page 4218, column 1, "Effective Dates," change "July 20, 1992," to "July 20, 1993."

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

- † October 26, 1992 - 10 a.m. - Open Meeting
 - † October 27, 1992 - 8 a.m. - Open Meeting
- Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review and disposition of enforcement cases; (iv) consider routine board business; and (v) conduct regulatory review.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

- October 15, 1992 - 10 a.m. - Open Meeting
 - October 16, 1992 - 9 a.m. - Open Meeting
- Virginia Department of Agriculture and Consumer Services, Board Room 204, 1100 Bank Street, Richmond, Virginia. ☒

10 a.m., October 15, 1992 - Pesticide Control Board committee meetings.
9 a.m., October 16, 1992 - Pesticide Control Board will conduct general business meeting.
Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia.
The public will have an opportunity to comment on

any matter not on the Pesticide Control Board's agenda at 9 a.m., October 16, 1992.

The board anticipates hearing a presentation on pesticides by a speaker, yet to be determined, at 8 p.m., October 15, 1992, following their dinner, at the Commonwealth Park Suites Hotel, Ninth and Bank Streets, Richmond, Virginia 23203.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558.

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD OF)

October 5, 1992 - Call contact for time - Open Meeting
Holiday Inn, 4303 Commerce Road, Richmond, Virginia.

The board will consider final regulations for gasoline vapor recovery systems and for a revised permit program for new industry and expansions.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

ALCOHOLIC BEVERAGE CONTROL BOARD

- October 14, 1992 - 9:30 a.m. - Open Meeting
 - October 26, 1992 - 9:30 a.m. - Open Meeting
- 2901 Hermitage Road, Richmond, Virginia. ☒

Receipt and discussion of reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

* * * * *

October 28, 1992 - 10 a.m. - Public Hearing
First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia.

October 28, 1992 - Written comments may be submitted until 10 a.m. on this date.

Notice is hereby given in accordance with § 9.6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend regulations entitled: VR 125-01-2. Advertising, VR 125-01-3. Tied House,

Calendar of Events

VR 125-01-4. Requirements for Product Approval, VR 125-01-5. Retail Operations, and VR 125-01-7. Other Provisions. Numerous regulations are being amended, some of which relate to (i) the advertising of nonalcoholic beer and nonalcoholic wine; (ii) allowing combination packaging; (iii) manufacturers, bottlers and wholesalers supplying placemats, coasters, napkins and back-bar pedestals to retailers under limited conditions; (iv) permitting novelty and specialty items with alcoholic beverage advertising to be given to patrons on the premises of retail licensees; (v) no limitation on the number of distilled spirits brands which may be listed on clip-ons and table tents; (vi) allowing brewpubs to use growlers to sell their beer to consumers for off-premises consumption; (vii) prohibiting a licensed club from obtaining a banquet special events license or a mixed beverage special events license for use on its premises; (viii) the definition of "gift shop"; (ix) the acceptance of credit or debit cards by A.B.C. stores for the retail purchase of alcoholic beverages; and (x) keg registration.

Statutory Authority: §§ 4-7(1), 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Contact: Robert N. Swinson, Secretary to the Board, P.O. Box 27491, 2901 Hermitage Rd., Richmond, VA 23261, telephone (804) 367-0616.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **October 22, 1992 - 9:30 a.m. – Open Meeting**
1601 Rolling Hills Drive, Richmond, Virginia. ☐

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-7390.

VIRGINIA AVIATION BOARD

† **October 20, 1992 - 9 a.m. – Open Meeting**
Chamber of Commerce Building, Melfa, Virginia. ☐

A meeting to discuss matters of interest to aviation in Virginia.

Contact: Nancy C. Brent, Virginia Department of Aviation, 4508 S. Laburnum Ave., Richmond, VA 23232-2422, telephone (804) 786-6284.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

NOTICE: CHANGE IN MEETING LOCATION

October 29, 1992 - 10 a.m. – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

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 Assistant Department by October 22, 1992.

December 3, 1992 - 10 a.m. - Open Meeting
State Capitol, Senate Room 4, Capitol Square, Richmond, Virginia. ☐

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 24, 1992.

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 ☐

BOARD OF COMMERCE

October 26, 1992 - 10 a.m. – Open Meeting
Department of Commerce, Room No. 1, 3600 West Broad Street, Richmond, Virginia. ☐

A regular quarterly meeting of the Board of Commerce. Agenda items expected are (i) reports from subcommittees reviewing citizen-member participation on occupational regulatory boards; (ii) revision of the "Agency Rules of Practice for Hearing Officers"; (iii) subcommittee report on trends in continuing education requirements for professionals; and (iv) a report from delegates to the national convention of state regulatory agencies (CLEAR).

Contact: Alvin D. Whitley, Board Secretary, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

† **October 21, 1992 - 10 a.m. – Open Meeting**
Southwest Virginia Museum, Big Stone Gap, Virginia. ☐

A general business meeting of the board.

Contact: Karen Spencer, Executive Secretary Senior, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124 or (804) 786-2121/TDD ☐

Goose Creek Scenic River Advisory Board

October 7, 1992 - 2 p.m. – Open Meeting
F & M Bank, Leesburg, Virginia.

A review of 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 ☎

Falls of the James Scenic River Advisory Board

October 16, 1992 - Noon – Open Meeting
Planning Commission Conference Room, Fifth Floor, City Hall, Richmond, Virginia. ☎

A review of 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 on Conservation and Development of Public Beaches

† **October 14, 1992 - 10:30 a.m. – Open Meeting**
Virginia Institute of Marine Science, Director's Conference Room, Richmond, Virginia. ☎

A regular meeting.

Contact: Susan M. Townsend, Program Support Technician, Shoreline Programs Bureau, P.O. Box 1024, Gloucester Point, VA 23062, telephone (804) 642-7121.

BOARD FOR CONTRACTORS

October 14, 1992 - 9 a.m. – Open Meeting
Conference Room 1, 3600 West Broad Street, Richmond, Virginia.

A regular quarterly meeting of the board to address policy and procedural issues as well as other routine business matters. The meeting is open to the public; however, a portion of the board's discussion may be conducted in Executive Session.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

† **October 21, 1992 - 10 a.m. – Open Meeting**
Buckingham Correctional Center, Dillwyn, Virginia. ☎

A regular monthly meeting to consider matters as may be presented to the board.

Contact: Mrs. Vivian T. Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

* * * * *

November 18, 1992 - 10:30 a.m. – Public Hearing
6900 Atmore Drive, Richmond, Virginia.

November 20, 1992 – Written comments may be submitted through this date.

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 230-30-001. Minimum Standards for Jails and Lockups.** The purpose of the proposed action is to incorporate the Work/Study Release Program Standards as an integral part of the Standards for Jails and Lockups.

Statutory Authority: §§ 53.1-5, 53.1-68, and 53.1-131 of the Code of Virginia.

Contact: Mike Howerton, Chief of Operations, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3262.

BOARD FOR COSMETOLOGY

October 19, 1992 - 9 a.m. – Open Meeting
November 23, 1992 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

CRIMINAL JUSTICE SERVICES BOARD

† **October 7, 1992 - 11 a.m. – Open Meeting**
General Assembly Building, House Room D, 910 Capitol Street, Richmond, VA 23219. ☎ (Interpreter for deaf provided upon request)

A meeting to consider matters relating to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

Calendar of Events

Committee on Training

† **October 7, 1992 - 9 a.m.** – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

BOARD OF DENTISTRY

October 9, 1992 - 8:30 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conferences.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906.

BOARD OF EDUCATION

† **October 29, 1992 - 8 a.m.** – Open Meeting
† **November 24, 1992 - 8 a.m.** – Open Meeting
James Monroe Building, Conference Rooms D and E, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Dr. Margaret Roberts, Executive Director, Board of Education, P.O. Box 2120, Richmond, VA 23216, telephone (804) 225-2540.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

November 5, 1992 - 5:30 p.m. – Open Meeting
December 3, 1992 - 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, 10,001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY

† **October 19, 1992 - 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, Internal Zip MC470, Prince William, VA 22192, telephone (703) 792-6800.

VIRGINIA EMERGENCY RESPONSE COUNCIL

October 29, 1992 - 10 a.m. – Open Meeting
Virginia Department of Waste Management, Conference Room B, Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

This meeting will provide the VERC with an update of issues concerning local governments/Local Emergency Planning Committees (LEPCs) and Emergency Planning and Community "Right-to-Know"; and this meeting will also have the VERC consider both a resolution praising the late Chief Warren E. Isman, of the Fairfax County Fire Department for his contributions towards hazardous materials response in Virginia, as well as a request by the Fairfax Joint LEPC to designate specific facilities for emergency planning.

Contact: Cathy L. Harris, Environmental Program Manager, Virginia Department of Waste Management, 14th Floor, Monroe, Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2513, 225-2631 or (804) 371-8737/TDD ☒

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

October 21, 1992 - Noon – Open Meeting
Radisson Hotel, 1900 Pavilion Drive, Virginia Beach, Virginia. ☒ Interpreter for deaf provided by request.

A regular meeting of the board.

Contact: Nancy L. Munnikhaysen, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6001 or (804) 371-8050/TDD ☒

COUNCIL ON THE ENVIRONMENT

October 7, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

This is a quarterly meeting of the council. The meeting is open to the public. The tentative agenda includes a discussion and vote on final public participation guidelines and a discussion of a report prepared by the Shell-fish Enhancement Task Force. Citizens will have an opportunity to present environmental concerns to the board during the meeting.

Contact: Hannah Crew, Environmental Planner, 902 N. 9th St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

VIRGINIA FIRE SERVICES BOARD

† **October 15, 1992 - 7:30 p.m. - Public Hearing**
Holiday Inn - Afton, Rt. 250 and I-64, Waynesboro, Virginia.

Fire services board public hearing to discuss fire training and policies. The hearing is open to the public for their input and comments.

† **October 16, 1992 - 9 a.m. - Open Meeting**
Holiday Inn - Afton, Rt. 250 and I-64, Waynesboro, Virginia.

Fire services board business meeting to discuss training and fire policies. The meeting is open to the public for their input and comments.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

† **October 15, 1992 - 10 a.m. - Open Meeting**
Holiday Inn - Afton, Rt. 250 and I-64, Waynesboro, Virginia.

Fire services board committee meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **October 15, 1992 - 9 a.m. - Open Meeting**
Holiday Inn - Afton, Rt. 250 and I-64, Waynesboro, Virginia.

Fire services board committee meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **October 15, 1992 - 1 p.m. - Open Meeting**
Holiday Inn - Afton, Rt. 250 and I-64, Waynesboro, Virginia.

Fire services board committee meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **October 5, 1992 - 3 p.m. - Open Meeting**
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Executive Committee will meet at 3 p.m., the Trainee/Education Committee will meet at 5 p.m., and the Legislative Committee will meet at 7 p.m.

† **October 6, 1992 - 9 a.m. - Open Meeting**
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Executive Committee will meet at 9 a.m. and a full board meeting will follow at 10 a.m. Public comment period will be during the first 30 minutes of the full board meeting.

† **October 7, 1992 - 9 a.m. - Open Meeting**
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Informal hearings.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9007 or (804) 662-7197/TDD ☎

BOARD OF GAME AND INLAND FISHERIES

October 8, 1992 - 1:30 p.m. - Open Meeting
4010 West Broad Street, Richmond, Virginia.

The board will meet to review alternative funding methods and to discuss general and administrative matters.

Calendar of Events

October 15, 1992 - 8:30 a.m. — Open Meeting
Sunset Beach Inn, Route 13, Eastern Shore, Virginia.

The board will spend the day touring wildlife areas on the Eastern Shore of Virginia.

October 16, 1992 - 9 a.m. — Open Meeting
Sunset Beach Inn, Route 13, Eastern Shore, Virginia.

The board will convene at 9 a.m. and then recess for committee meetings, beginning with the Ad Hoc Committee on Funding, followed by the Wildlife and Boat Committee, the Planning Committee, Finance Committee, Law and Education Committee and end with the Liaison Committee. In addition to each committee discussing items appropriate to its authority, the Wildlife and Boat Committee will review fish regulation proposals, based on public input received. At the conclusion of the committee meetings, the board will reconvene to go into executive session.

October 17, 1992 - 9 a.m. — Open Meeting
Sunset Beach Inn, Route 13, Eastern Shore, Virginia.

The board will receive public input, adopt fish regulation proposals, and discuss and possibly take action on any general administrative matters that may be necessary.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

BOARD FOR GEOLOGY

October 9, 1992 - 10 a.m. — Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room No. 3, Richmond, Virginia. ☒

General board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☒

GOVERNOR'S COMMISSION ON DEFENSE CONVERSION AND ECONOMIC ADJUSTMENT

† **October 14, 1992 - 8:30 a.m. — Public Hearing**
Fairview Park Marriott, 3111 Fairview Park Drive, Falls Church, Virginia. ☒ (Interpreter for deaf provided upon request)

Public hearing and business meeting.

Contact: Jeffery A. Windum, Deputy Commissioner, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 786-3001 or (804)

371-8050/TDD ☒

GOVERNOR'S ADVISORY COMMISSION ON THE DILLON RULE AND LOCAL GOVERNMENT

† **October 8, 1992 - 10 a.m. — Open Meeting**
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☒

A general work session.

Contact: Paul Grasewicz, Associate Director, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7013.

GOVERNOR'S TASK FORCE ON FUELS TAX EVASION

† **October 19, 1992 - 9:30 a.m. — Open Meeting**
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

The task force will examine fuels tax legislation and the process and resources associated with fuels tax administration. No public comment will be received at this meeting.

Contact: Ralph M. Davis, Assistant Commissioner for Administrative Services, Department of Motor Vehicles, Room 710, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6615.

GOVERNOR'S COMMISSION ON INTERCOLLEGIATE ATHLETICS

† **October 13, 1992 - 9 a.m. — Public Hearing**
General Assembly Building, House Room D, 910 Governor Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request - contact by Oct. 6, 1992)

A public hearing on commission recommendations (time limit of three minutes per speaker). The regular commission meeting will begin at 11 a.m.

For a copy of the draft recommendations, contact Merelyn Warden.

Contact: Merelyn E. Warden, Executive Secretary, Department of Planning and Budget, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-6328.

GOVERNOR'S COMMISSION ON VIOLENT CRIME

Inmate Productivity Subcommittee

October 13, 1992 - 10 a.m. — Open Meeting
Roanoke City Council Chambers, 215 Church Avenue, S.W., Fourth Floor, Municipal Building, Roanoke, Virginia. ☒ Interpreter for deaf provided by request.

The Inmate Productivity Subcommittee will hold a meeting and public hearing at the Roanoke City Council Chambers. The public hearing should begin at 2 p.m. The commission will be receiving suggestions with regard to the following strategies:

- 1) To prevent crime from occurring in the first place;
- 2) To solve crime when it occurs;
- 3) To strengthen the criminal justice system; and
- 4) To reduce criminal recidivism.

Contact: Mr. Kirk Showalter, Staff Leader to Subcommittee, Department of Planning and Budget, Room 513, Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-7551.

October 21, 1992 - 10 a.m. – Open Meeting
General Assembly Building, 9th Floor, West Conference Room, Richmond, Virginia. ☐

Open meetings and mini-public hearings.

Contact: Kris Ragan, Special Assistant to the Secretary of Public Safety and the Governor's Commission on Violent Crime, Office of the Governor, Richmond, VA, telephone (804) 786-5351 or (804) 786-7765/TDD ☐



DEPARTMENT OF HEALTH (STATE BOARD OF)

October 23, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-18-000. Waterworks Regulations: Total Coliform and Surface Water Treatment.** These amendments incorporate the Federal Total Coliform Rule and Surface Water Treatment Rule into the Virginia Waterworks Regulations. The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the Federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency (USEPA) mandates to retain this authority. The purpose of these regulations is to retain primacy by adopting regulations as stringent as the federal regulations for total coliforms and surface water treatment. These regulations, which are amendments to the existing Waterworks Regulations and which incorporate the

federal Total Coliform Rule (TCR) and Surface Water Treatment Rule (SWTR), will conform the state regulations to federal regulations and should avoid duplicate enforcement action by the USEPA in Virginia under federal law.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Written comments may be submitted until October 23, 1992, to Allen R. Hammer, Director, DWSE, 1500 East Main Street, Room 109, Richmond, VA 23218.

Contact: Robert B. Taylor, Technical Service Administrator, 1500 E. Main St., Room 109, Richmond, VA 23218, telephone (804) 786-5566.

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October 7, 1992 - 7 p.m. – Public Hearing
Augusta County Government Center, Board of Supervisors Meeting Room, 4801 Lee Highway, Verona, Virginia.

October 22, 1992 - 7 p.m. – Public Hearing
Spotsylvania County Courthouse, Board of Supervisor's Room, Spotsylvania, Virginia.

October 27, 1992 - 7 p.m. – Public Hearing
South Boston City Council Chambers, South Boston, Virginia.

November 9, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to adopt regulations entitled: **VR 355-18-014. Waterworks Operation Fee.** The purpose of this proposed regulation is to assess an annual operations fee (not to exceed \$160,000) on the owners of waterworks. The amount of the fee is based on the number of persons served, number of connections, or the classification of the waterworks. The revenue generated by this regulation will supplement funding to implement the 1986 amendments to the federal Safe Drinking Water Act (SWDA) and will be deposited into the Waterworks Technical Assistance Fund established in the state treasury by § 32.1-171.1 B.

Statutory Authority: §§ 32.1-70 and 32.1-71.1 of the Code of Virginia.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, 1500 E. Main St., Suite 109, Richmond, VA 23219, telephone (804) 786-5566.

DEPARTMENT OF HEALTH PROFESSIONS (BOARD OF)

† **October 20, 1992 - 8:30 a.m. – Open Meeting**

Calendar of Events

Sheraton Inn and Conference Center, Fredericksburg, Virginia. ☒

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The annual meeting of the board. Reports on legislative and other studies will be revised and adopted and officers for calendar year 1993 will be elected.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Administration and Budget Committee

October 5, 1992 - 3 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A planning meeting for the committee.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎ .

Regulatory Research Committee

October 6, 1992 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

The Committee will review draft reports on the following studies:

- Review of Need for Board of Chiropractic House Joint Resolution No. 26
- Review of Need for Certification of Mental Health Services to Sexual Assault Victims and Offenders (Senate Joint Resolution No. 41)
- Continuing Education and Infectious Diseases (Senate Joint Resolution 111)

An agenda is available on request.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎ .

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

October 27, 1992 - 9:30 a.m. - Open Meeting
November 24, 1992 - 9:30 a.m. - Open Meeting
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Virginia Room, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Kim Schulte Barnes, Information Officer, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

November 20, 1992 - Written comments may be submitted through 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 repeal regulations entitled **VR 370-01-000, Public Participation Guidelines** and adopt regulations entitled: **VR 370-01-000:1, Public Participation Guidelines**. This action repeals existing regulations and enacts new Public Participation Guidelines for soliciting the input of interested parties in the formation and development of regulations.

Statutory Authority: §§ 9-6.14.7:1 and 9-164 (2) of the Code of Virginia.

Contact: John A. Rupp, Executive Director, 805 E. Broad St., Sixth Floor, Richmond, VA 23219, telephone (804) 786-6371.

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November 21, 1992 - Written comments may be submitted through this date.

November 24, 1992 - 1 p.m. - Public Hearing
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001, The Rules and Regulations of the Virginia Health Services Cost Review Council**. The purpose of the proposed action is to clarify the definition of "charity care" as utilized in the analysis of the various filings submitted by health care institutions.

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

Contact: John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

† October 15, 1992 - 10 a.m. - Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☒

The department staff will meet with the citizen advisory panel to discuss and revise a draft report pursuant to H.J.R. 198 studying options for public/private approaches to historic preservation.

Contact: M. Catherine Slusser, State Archaeologist, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3134.

Board of Historic Resources and State Review Board

† **October 21, 1992 - 10 a.m. - Open Meeting**
Fredericksburg Area Museum and Cultural Center, Historic Council Chamber, 3rd Floor, 907 Princess Ann Street, Fredericksburg, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places.

Properties to be considered by the State Review Board and the Virginia Board of Historic Resources for nomination to the Virginia Landmarks Register and the National Register of Historic Places:

1. Annandale, Botetourt County
2. Lantz Hall, Town of Woodstock, Shenandoah County
3. Lincoln Theatre, Town of Marion, Smyth County
4. Woodson's Mill, Nelson County

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1943/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

October 6, 1992 - 9 a.m. - Open Meeting
† **November 3, 1992 - 9 a.m. - Open Meeting**
† **December 1, 1992 - 9 a.m. - Open Meeting**
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

October 12, 1992 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled **VR 394-01-02. Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen.** Proposed amendments to the

standard deal specifically with the certification of blasters and proposes to divide the certification into two categories, restricted and unrestricted. A restricted blaster is limited to conducting blasting operations involving five pounds of explosives or less per shot with instantaneous blasting caps. The proposed changes would permit the applicant for certification as a restricted blaster to utilize a competency test commensurate with that type of blasting operation instead of the comprehensive test previously required for all blasters. The applicant for the restricted certification would also have to meet experience requirements by working under a certified or restricted blaster for at least one year.

Statutory Authority: §§ 27-97 and 36-137 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to the Code Development Office, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219-1312.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

October 12, 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 Housing and Community Development intends to amend regulations entitled **VR 394-01-04. Virginia Amusement Device Regulations.** The proposed amendments to this regulation are a result of statutory changes made during the 1991 session of the General Assembly and a review of public comment submitted to the Board of Housing and Community Development since the effective date of the 1990 edition of the regulation. The definition of "kiddie ride" is proposed to be split into Types A and B to differentiate between those rides that require partial or complete reassembly and those which require little or none. A definition of "passenger tramway" was added to be consistent with new provisions in state law which includes passenger tramways as amusement devices. Section 400.1 of the regulation includes tramways within the scope of the regulation. A proposed change to § 1000.3(2) will limit the acceptability of a certificate of inspection for a ride moved from location to location only a Type A kiddie ride. Section 1100.1 is amended to require owners and operators of amusement rides to notify the locality immediately when an accident involving serious injury or fatality occurs, and new provisions in §§ 1100.3 and 1500.3 require action by the building official prior to resuming service and a new certificate of inspection to be issued after an accident. Appendix A, which lists the referenced standards, has

Calendar of Events

a proposed change to include the ANSI B77.1-90 standard for use in inspecting passenger tramways.

Statutory Authority: §§ 36-98, 36-98.3 and 36-137 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Dept. of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1312.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

October 12, 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 Housing and Community Development intends to amend regulations entitled **VR 394-01-06. Virginia Statewide Fire Prevention Code/1990**. The proposed amendments are to § F-102.0. A change to § F-102.1 requires a local governing body electing to locally enforce the SFPC to take official action to do so, and to provide notification by copy of the adopting ordinance or resolution to the State Fire Marshal's Office. The existing modification provision for the Public Building Safety Regulations will be deleted and replaced by a general modification section applicable to any provision of the regulation. A new requirement for documentation of the modification and making it part of the records of the enforcing agency are also included. These proposed changes are similar to provisions already contained in both Volume I and Volume II of the Uniform Statewide Building Code.

Statutory Authority: § 27-97 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, Virginia 23219-1321.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

October 12, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction**

Code/1990. The proposed amendments to this regulation are a result of statutory changes made during the 1991 and 1992 sessions of the General Assembly and a review of public comment submitted to the Board of Housing and Community Development since the effective date of the 1990 edition of the regulation. Section 105.6 has been amended to contain more specific requirements for plans review response; § 112.3 is changed to require the building official to prosecute a person who has been served notices of violation for failure to obtain a construction permit three or more times within the same calendar year; § 112.4 sets the penalty for violations in accordance with the state law; an amendment to § 115.6 authorizes the building official to revoke a certificate of occupancy under certain conditions and §§ 120.1 and 120.3 add provisions by which certain structures deemed to be either unsafe buildings or public nuisances may be abated or removed. Changes to the BOCA and CABO Codes are proposed in Addenda 1 and 2 of the regulation including new definitions proposed to § 201.0 for family day care homes, small family day care homes, and public nuisances. A new § 309.4.1.1 is added to classify as Use Group R-3 family day care homes and small family day care homes licensed or registered by the Department of Social Services. A proposed exception to § 512.2 would exempt from handicapped accessibility requirements buildings used exclusively for religious or private club activities; and a new section 512.2.1 is added to specify accessible parking space identification requirements mandated by state law. Section 1300.4 identifies .06% by weight as the level of lead content in lead based paint not to be exceeded in new paint applications; amendments to §§ 2700.5 and R-220 require two-pair twisted wire cable to be used in prewiring for telephone jacks. Amendments to § P-1503.8 (Addendum 1) and P-2301 (Addendum 2) provide alternative standards for elective local enforcement where water conservation plumbing fixtures and fittings are necessary due to a lack of present or future water supply; and P-2206.8.2 is amended to add specific requirements for grinder pumps.

Statutory Authority: §§ 36-98, 36-99 and 36-102 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1312, telephone (804) 371-7150.

October 12, 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 Department of Housing and Community Development intends to amend regulations entitled VR 394-01-22. **Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990.** The proposed amendments to this regulation are a result of statutory changes made during the 1991 and 1992 sessions of the General Assembly respond to a review of public comment submitted to the Board of Housing and Community Development since the effective date of the 1990 edition of the regulation. Section 101.4 is changed to clarify the application of the code to buildings built prior to the effective date of Volume I of the building code. Section 104.4 changes the violation penalty fee to reflect the change to state law; § 105.8 clarifies existing requirements for unsafe buildings and public nuisances; and § 109.5 requires that parking spaces reserved for persons with disabilities be properly identified by January 1, 1993, pursuant to state law. One change has been proposed to the BOCA National Property Maintenance Code in Addendum 1 of Volume II. Section PM-303.4 of BOCA has been amended to change the level of lead in lead based paint requiring abatement or removal in existing dwellings, child and day care centers from .06% to .5% by weight as recommended by the HUD Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing.

Statutory Authority: § 36-103 of the Code of Virginia.

Written comments may be submitted until October 12, 1992, to Code Development Office, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219-1312.

Contact: Carolyn Williams, Building Code Supervisor, Jackson Center, 501 N. 2nd St., Richmond, VA 23210-1312, telephone (804) 371-7150.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **October 20, 1992 - 11 a.m. – Open Meeting**
601 South Belvidere Street, Richmond, Virginia. ☒

This will be the regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within its 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.

This date of the regular meeting may be changed to October 15 or 16 to coincide with the Governor's Housing Conference. Please contact the authority for confirmation of the October meeting date.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

October 19, 1992 - 1 p.m. – Open Meeting
Hampton, Virginia. (Meeting site will be announced later)

The regular meeting of the Advisory Commission on Intergovernmental Relations will be held in conjunction with the annual conference of the Virginia Municipal League.

Persons desiring to participate in the commission's meeting and requiring special accommodations or interpreter services should contact the commission's offices by October 9, 1992.

Contact: Robert H. Kirby, Secretary, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎ .

LIBRARY BOARD

November 13, 1992 - 10 a.m. – Open Meeting
The Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

October 7, 1992 - 3 p.m. – Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

Local Emergency Planning meeting as required by SARA Title III.

Contact: L. A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 662-2298.

Calendar of Events

COMMISSION OF LOCAL GOVERNMENT

October 5, 1992 - 10:30 p.m. – Open Meeting
Purcellville Town Hall, 130 East Main Street, Purcellville, Virginia.

Oral presentations regarding Town of Purcellville - Loudoun County Agreement Defining Annexation Rights. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, September 25, 1992.

October 5, 1992 - 7:30 p.m. – Public Hearing
Purcellville Town Hall, 130 East Main Street, Purcellville, Virginia.

Public hearing regarding Town of Purcellville - Loudoun County Agreement Defining Annexation Rights. Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the Commission's offices by Friday, September 25, 1992.

Contact: Barbara Bingham, Administrative Assistant, 702 Eight Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Board of Visitors

Academic Affairs/Student Affairs Committee

† **October 13, 1992 - 6 p.m. – Open Meeting**
Longwood College, Ruffner Building, Board Room, Farmville, Virginia. ☎

A routine business meeting of the committee.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

STATE LOTTERY BOARD

† **October 26, 1992 - 10 a.m. – Open Meeting**
† **November 23, 1992 - 10 a.m. – Open Meeting**
2201 West Broad Street, Richmond, Virginia. ☎

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

October 27, 1992 - 9:30 a.m. – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☎ (Interpreter for deaf provided upon request)

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: 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, VA 23607, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎ .

MARY WASHINGTON COLLEGE

Board of Visitors

† **October 24, 1992 - 8:30 a.m. – Open Meeting**
Woodard Campus Center, Red Room, Mary Washington College, Fredericksburg, Virginia. ☎

Committee meetings will be held throughout the day on Friday, October 23. The full board will meet on October 24 to act on resolutions presented by the committees.

Contact: Vicki Campbell, Office of the President, 1301 College Ave., Fredericksburg, VA 22401-5358, telephone (703) 899-4621, (703) 899-4624/TDD ☎ or FAX (703) 899-4964.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

October 9, 1992 – Written comments may be submitted through 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 Disproportionate Share Adjustments for State Teaching Hospitals. VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates—Inpatient Hospital Care.** The purpose of the proposed action is to promulgate permanent regulations on disproportionate share adjustments for state teaching hospitals. The amendments provide for two types of hospitals (state-owned teaching hospitals and all other hospitals), and vary the payment adjustment for disproportionate share hospitals by type of hospital.

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

Written comments may be submitted until October 9, 1992, to William R. Blakely, Jr., Director, Division of Cost Settlement and Audit, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

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

* * * * *

November 20, 1992 – Written comments may be submitted through 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt and amend regulations entitled: **VR 460-01-29.4, 460-01-70, 460-02-2.2100, 460-02-2.6100, 460-02-4.2230, 460-04-4.2230. Health Insurance Premium Payment Program (HIPP).** The purpose of this proposal is to implement the mandates of § 1906 of the Social Security Act to provide for (i) the identification of cases in which the enrollment of Medicaid recipients in group health plans is likely to be cost effective; (ii) the requirement that recipients in such cases enroll in the available group health plan as a condition of continued eligibility for Medicaid; (iii) the provision for payment of premiums and other cost-sharing obligations for items and services otherwise covered by Medicaid; and (iv) the treatment of the group health plan as a third party liability resource resulting, thereby, in such plans becoming primary sources of health care payments for the affected Medicaid recipients.

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

Written comments may be submitted until November 20, 1992 at 4:30 p.m. to: C. Mack Brankley, Director, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad

St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

Drug Utilization Review Board

October 8, 1992 - 3 p.m. – Open Meeting
November 5, 1992 - 3 p.m. – Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia.

A regular meeting of the DMAS DUR Board. Routine business will be conducted.

Contact: Carol D. Pugh, Pharm. D., Drug Utilization Review Program Consultant, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-3820.

BOARD OF MEDICINE

Credentials Committee

October 17, 1992 - 8 a.m. – Open Meeting
Brookfield Centre, 6606 West Broad Street, Richmond, Virginia.

A meeting to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, in open and executive session, and discuss any other items which may come before the committee.

Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9923.

Advisory Board on Physical Therapy

NOTE: CHANGE IN MEETING DATE
November 20, 1992 - 9 a.m. – Open Meeting
Brookfield Centre, 6606 West Broad Street, Richmond, Virginia.

A meeting to (i) review the regulations, (ii) elect officers, (iii) review the licensure examinations, and (iv) receive other reports relating to the practice of physical therapy.

The Chairperson may entertain public comments at her pleasure.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9923.

Advisory Committee on Physician's Assistants

November 6, 1992 - 10 a.m. – Open Meeting
Brookfield Centre, 6606 West Broad Street, Richmond, Virginia.

Calendar of Events

A meeting to review the regulations and adopt new regulations for prescriptive authority to prescribe certain Schedule VI controlled substances and devices.

The Chairman may entertain public comments at his pleasure.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9923.

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

† **October 27, 1992 - 8 p.m.** – Open Meeting

† **October 28, 1992 - 9 a.m.** – Open Meeting

Northern Virginia Training Center, Falls, Church, Virginia.

☒

A regular monthly meeting. An informal session will be held at 8 p.m. on October 27. Committee meetings begin at 9 a.m. on October 28 and the regular session begins at 10 a.m. The agenda will be published on October 21 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, Board Administrator, State MHMRSAS Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

State Human Rights Committee

† **November 6, 1992 - 9 a.m.** – Open Meeting

Madison Building, 109 Governor Street, 13th Floor Conference Room 109 Governor Street, Richmond, Virginia.

☒

A regular meeting of the committee to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988.

Prevention, Promotion Advisory Council

October 22, 1992 - 10 a.m. – Open Meeting

Madison Building, Eighth Floor Conference Room, Richmond, Virginia.

A regularly scheduled business meeting.

Contact: Harriet Russell, Director, Office of Prevention, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530 or (804) 371-8977/TDD ☒ .

Virginia Council on Teen Pregnancy Prevention

November 5, 1992 - 10 a.m. – Open Meeting

Blair Building, Conference Room A and B, 8007 Discovery Drive, Richmond, Virginia.

A regularly scheduled business meeting.

Contact: Harriet Russell, Director, Office of Prevention, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530 or (804) 371-8977/TDD ☒ .

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

November 5, 1992- 7 p.m. – Open Meeting

502 South Main Street No. 4, Culpeper, Virginia.

From 7 p.m. until 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 before it 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 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

MILK COMMISSION

† **October 21, 1992 - 10 a.m.** – Open Meeting

Ninth Street Office Building, 200-202 North Ninth Street, Suite 1015, Richmond, Virginia. ☒

A commission meeting to discuss routine business and information for the public hearing scheduled at 11 a.m. on the same day.

† **October 21, 1992 - 11 a.m.** – Public Hearing

State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

A public hearing to consider amending Regulation No. 10, paragraph 7(G)(2), of the commission's rules and regulations to more accurately reflect actual delivery costs experienced by licensed distributors as the presumptive delivery costs percentages for various volume delivery categories have not been amended since January 1981.

Contact: Rodney L. Phillips, Administrator, Ninth Street Office Bldg., Suite 1015, Richmond, VA 23219-3402, telephone (804) 786-2013/TDD ☒

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mineral Mining

October 6, 1992 - 7 p.m. – Public Hearing
Accomack County Board of Supervisors Chambers, 23296
Courthouse Avenue, Accomac, Virginia. ☒

A public hearing will be held to receive comments and information regarding the Mineral Mining Permit Application of Parks Farms. The Permit Applicant proposes to mine sand from 4 acres located 1 mile Southeast of Gargatha; off Route 679, .2 miles Northeast of the intersection of Routes 679 and 680 in Accomack County, Virginia.

The Permit Application is available for review at the Division of Mineral Mining offices at 7705 Timberlake Road, Lynchburg, Virginia.

Contact: Conrad Spangler, Division Director, P.O. Box 4499, Lynchburg, VA 24502, telephone (804) 239-0602.

DEPARTMENT OF MOTOR VEHICLES

October 6, 1992 - 9 a.m. – Public Hearing
Richmond War Memorial, Richmond, Virginia. ☒

October 7, 1992 - 10 a.m. – Public Hearing
Thomas Nelson Community College, Wythe Hall Room,
Hampton, Virginia.

November 20, 1992 – Written comments may be submitted through 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **VR 485-60-9202. Salvage Act Regulations.** The proposed regulation is to be used in the administration of the 1992 Salvage Act. The regulation will (i) provide additional definitions; (ii) allow exemptions from certain provisions of the Act under certain circumstances; (iii) furnish additional processing guidelines for individual entities; and (iv) further define departmental examination requirements.

Statutory Authority: § 46.2-203 of the Code of Virginia.

Contact: L. Steve Stupasky, Project Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1939.

Medical Advisory Board

† **October 14, 1992 - 1 p.m. – Open Meeting**
Department of Motor Vehicles, 2300 West Broad Street,
Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Karen Ruby, Manager, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0481.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† **October 24, 1992 - 9 a.m. – Open Meeting**
Sheraton Inn, 2350 Seminole Trail, Charlottesville, Virginia.
☒

The meeting will include reports from the executive, finance, marketing, outreach, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the August meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8638/TDD ☎ .

BOARD OF NURSING

October 6, 1992 - 10 a.m. – Open Meeting
Virginia Alcoholic Beverage Board, 4907 W. Mercury Blvd.,
Hampton, Virginia.

Formal hearings conducted by a hearing officer with certificate holders.

Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Education Advisory Committee

October 13, 1992 - 10 a.m. – Open Meeting
Department of Health Professions, Conference Room 3,
1601 Rolling Hills Drive, Richmond, Virginia. ☒
(Interpreter for deaf provided by request)

The Education Advisory Committee will meet to consider matters related to educational programs approved by the Board of Nursing and make recommendations to the board as needed.
Public comments will be accepted at 1 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Special Conference Committee

October 7, 1992 - 8:30 a.m. – Open Meeting
October 8, 1992 - 8:30 a.m. – Open Meeting
October 19, 1992 - 8:30 a.m. – Open Meeting

Calendar of Events

Department of Health Professions, Conference Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided by request)

A Special Conference Committee, comprised of three members of the Virginia Board of Nursing, will conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing.

Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† October 15, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9111.

VIRGINIA OUTDOORS FOUNDATION

† October 5, 1992 - 10:30 a.m. - Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☒

A general business meeting.

Contact: Tyson B. VanAuken, Executive Director, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PHARMACY

† October 8, 1992 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A board meeting and formal hearing.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

* * * * *

October 23, 1992 - Written comments may be submitted through this date.

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 530-01-01.**

Virginia Board of Pharmacy Regulations. The purpose of the proposed amendments is to promulgate regulations necessary (i) to implement legislation requiring (a) mandatory continuing education, (b) relicensure and regulation of wholesalers, (c) 30-day notification of pharmacy closing, and (ii) to establish and amend all related fees.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

† October 26, 1992 - 9 a.m. - Open Meeting

Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A board meeting to (i) adopt final regulations to implement 1992 legislation and enact fee changes, (ii) develop and adopt proposed regulations related to the 1992 biennial review pursuant to the Notice of Intent published September 7, 1992, and (iii) develop responses to public comments received. The board will receive no public comments.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

PRIVATE SECURITY SERVICES ADVISORY BOARD

† October 15, 1992 - 9 a.m. - Open Meeting

Sheraton Inn Oceanfront, 36th Street, Virginia Beach, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss business of the board.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

BOARD OF PROFESSIONAL COUNSELORS

† October 9, 1992 - 9 a.m. - Open Meeting

† October 10, 1992 - 9 a.m. - Open Meeting

Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) respond to committee reports; (iii) consider board correspondence; and (iv) conduct regulatory review.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9912.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† December 4, 1992 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Professional Soil Scientists intends to amend regulations entitled: **VR 627-02-01. Board for Professional Soil Scientists.** The purpose of the proposed amendments is to adjust fees, insert waiver language, and clarify core course requirements.

STATEMENT

Preliminary statement of basis, purpose, summary and impact:

Pursuant to Chapters 1 through 3 and Chapter 22 of Title 54.1 of the Code of Virginia, the Virginia Board for Professional Soil Scientists proposes to amend its regulations to adjust fees, add language regarding the waiver of examination through experience, and clarify core course requirements. These regulations apply to approximately 71 certified soil scientists.

The adjustment of fees will assure that the variance between revenues and expenditures for the board does not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia.

1. Proposed regulations will increase fees for the following:

a. Initial application fee will increase from \$125 to \$150.

b. Examination fee will increase from \$75 to \$150.

2. The additional language pertaining to waiver from the examination through experience recognizes legislation adopted by the General Assembly in 1991. The regulatory amendments were delayed as there was some discussion of deregulation of the program. Deregulation did not occur; therefore, the regulatory process was begun.

3. The amendments regarding the core course requirements clarify what courses or their equivalent can be used to obtain credit for academic experience.

Statutory Authority: § 54.1-201 and Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

REAL ESTATE APPRAISER BOARD

October 13, 1992 - 10 a.m. – Open Meeting
December 15, 1992 - 10 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, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

† October 16, 1992 - 8:30 a.m. – Open Meeting
† November 20, 1992 - 8:30 a.m. – Open Meeting
† December 18, 1992 - 8:30 a.m. – Open Meeting
Tyler Building, Suite 208, Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† October 7, 1992 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will consider (i) appeal of Dennia Dinneen, Tax Map 74, Parcel 31A & B, Fauquier County, Virginia; and (ii) appeal of Elwood Knicey, 8285 Highview Street, Tax Map No. 007-09-00X0004, Prince William County, Virginia.

Contact: Constance G. Talbert, Acting Secretary to the Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

October 14, 1992 - 9 a.m. – Open Meeting
October 15, 1992 - 9 a.m. (if necessary) – Open Meeting
Holiday Inn 1776, 725 Bypass Road, Williamsburg, Virginia.

Calendar of Events

Retreat, work session, and formal business meeting of the board.

Contact: Phyllis Sisk, Senior Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9236 or 1-800-552-7096/TDD .

October 23, 1992 - Written comments may be submitted through 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 615-01-49. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation.** The proposed regulation will impose a disqualification on an individual determined by court or pursuant to an administrative hearing to have committed an intentional violation in the AFDC program.

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

Written comments may be submitted through October 23, 1992, to Mr. George Sheer, Chief, Bureau of Fraud and Special Investigations, 8007 Discovery Drive, Richmond, VA 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF TAXATION

† October 21, 1992 - 9 a.m. - Open Meeting
Virginia Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☒

In conjunction with 1992 Senate Joint Resolution No. 70 this is an informal meeting to solicit comments and suggestions on developing procedures for notifying citizens in the Commonwealth of their eligibility for the federal earned income tax credit.

Contact: Lonnie T. Lewis, Jr., Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0962.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† October 8, 1992 - 10 a.m. - Open Meeting
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.

A quarterly board meeting to (i) present policies and procedures for the master plan for telecommunications, (ii) approve the revised by-laws, and (iii) consider other items of interest.

Contact: Florence M. Strother, Acting Executive Secretary to the VPTB, 110 S. 7th St., 1st Floor, Richmond, VA 23219, telephone (804) 344-5552.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

† October 14, 1992 - 2 p.m. - Open Meeting
Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A work session of the board and department staff.

† October 15, 1992 - 10 a.m. - Open Meeting
Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

† October 15, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Speakers Conference Room, 6th Floor, Richmond, Virginia. ☒

The commission will hold its first scheduled meeting for 1992-93.

Contact: William T. McCollum, Executive Director, 1001 E. Broad St., Suite 245, Richmond, VA 23219, telephone (804) 786-5895.

VIRGINIA RESOURCES AUTHORITY

† October 13, 1992 - 9 a.m. - Open Meeting
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to approve minutes of the meeting of September 8, 1992, to review the

authority's operations for the prior months, and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

† **November 10, 1992 - 9 a.m. – Open Meeting**
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to approve minutes of the meeting of October 13, 1992, to review the authority's operations for the prior months, and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Mr. Shockley D. Gardner, Jr., 909 E. Main St., Suite 707, Mutual Bldg., Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

VIRGINIA STUDENT ASSISTANCE AUTHORITIES

Board of Directors

† **October 13, 1992 - 10 a.m. – Open Meeting**
411 East Franklin Street, 2nd Floor Boardroom, Richmond, Virginia. ☒

A general business meeting.

Contact: Catherine E. Fields, Administrative Assistant, One Franklin Square, 411 E. Franklin St., Suite 300, Richmond, VA 23219, telephone (804) 775-4648 or toll-free 1-800-792-LOAN.

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **November 11, 1992 - 8:30 a.m. – Open Meeting**
† **November 12, 1992 - 8:30 a.m. – Open Meeting**
Sheraton Inn Fredericksburg, I-95 and Rt. 3 (Exit 130B).

Wednesday, Nov. 11
8:30 a.m. Orientation meeting for on-site visits
9:30 a.m. On-site visits to vocational education and occupational-technical education sites in the area
2:30 p.m. General session
3:30 p.m. Committee meetings

Thursday, Nov. 12
8:30 a.m. Business session
Noon - Adjournment

Contact: Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd.,

Richmond, VA 23237, telephone (804) 275-6218.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

October 22, 1992 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The department is holding an informational meeting on the proposed amendments to the Infectious Waste Management Regulations (VR 672-40-01).

Contact: Murphy P. Murphy, Environmental Program Manager, 11th Floor, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044 or (804) 371-8737/TDD ☎

† **November 5, 1992 - 7 p.m. – Public Hearing**
Human Resource Building, County Court House, Board Room, Lunenburg, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (SWMR), permitting of solid waste management facilities, the Department of Waste Management will hold a public hearing on the proposed draft permit for a sanitary landfill to be located on State Route 659 approximately one mile west of State Route 635. The permit was drafted by the Department of Waste Management for Lunenburg County, in accordance with Part VII of the SWMR. The purpose of the public hearing will be to solicit comments concerning the technical merits of the permit as they pertain to the landfill design, operation and closure. The public comment period will extend until November 16, 1992. Comments concerning the draft permit and copies of the draft permit may be obtained by writing to the contact person.

Contact: Aziz Farahmand, Environmental Engineer Consultant, Department of Waste Management, 11th Floor, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0515.

† **November 12, 1992 - 7 p.m. – Public Hearing**
Grissom Library, 366 Deshazo Drive, Newport News, Virginia.

Pursuant to the requirements of Part VII, Virginia Solid Waste Management Regulations (SWMR), permitting of solid waste management facilities, the Department of Waste Management will hold a public hearing on the draft permit amendment for sanitary Landfill No. 2 located on Warwick Boulevard, approximately one mile north of Denbeigh Boulevard. The permit amendment was drafted by the Department of Waste Management for the City of Newport News, in accordance with Part VII of the

Calendar of Events

SWMR. The purpose of the public hearing will be to solicit comments regarding the technical merits of the amended issues. The public comment period will extend until November 23, 1992. Comments concerning the draft permit must be in writing and directed to Aziz Farahmand, Department of Waste Management, 11th Floor Monroe Bldg., 101 N. 14th St., Richmond, VA 23219. Copies of the proposed draft permit may be obtained from the contact person listed below.

Contact: Paul Farrell, Environmental Engineer Sr., Department of Waste Management, 11th Floor, Monroe Bldg., 101 N. 14th. St., Richmond, VA 23219, telephone (804) 371-0521.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

October 5, 1992 - 10 p.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD

STATE WATER CONTROL BOARD

October 19, 1992 - 1 p.m. - Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☒

October 21, 1992 - 7 p.m. - Open Meeting
Tidewater Regional Office, 287 Pembroke Office Park, Suite 310, Pembroke 5, Virginia Beach, Virginia.

October 23, 1992 - 1 p.m. - Open Meeting
County of Prince William Board Chambers, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

October 26, 1992 - 10 a.m. - Open Meeting
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

November 4, 1992 - 10 a.m. - Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

November 6, 1992 - 9 a.m. - Open Meeting
University of Virginia, Southwest Center, Classroom 1, Highway 19 N., Abingdon, Virginia.

A meeting to receive views and comments and answer questions of the public regarding VR 680-21-00 Water Quality Standards.

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5091.



VIRGINIA DEPARTMENT OF
**YOUTH &
FAMILY SERVICES**
Youth Begins With You.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

October 8, 1992 - 10 a.m. - Open Meeting
Department of Youth and Family Services, 700 Centre, Richmond, Virginia.

A general business meeting of the board.

Contact: Don Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

State Management Team of the Comprehensive Services Act for At-Risk Youth and Families

October 8, 1992 - 9 a.m. - Open Meeting
Koger Center, Wythe Building, Conference Room B, 1604 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

October 22, 1992 - 9 a.m. - Open Meeting
Koger Center, Nelson Building, Suite 211, 1503 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting to effect the Comprehensive Services Act for At-Risk Youth and Families. Please confirm meeting details before planning to attend.

Contact: Dian McConnell, Director, Council on Community Services for Youth and Families, Department of Youth and Families, 700 Centre, 4th Floor, Richmond, VA 23219, telephone (804) 371-0771.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING THE EFFECTIVENESS OF MANAGEMENT STRUCTURE OF THE DEPARTMENT OF GAME AND INLAND FISHERIES

October 8, 1992 - 10 a.m. - Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ☒

The subcommittee will meet for an organizational meeting. (HJR 191)

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

DR. MARTIN LUTHER KING JR. MEMORIAL COMMISSION

† October 22, 1992 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

The subcommittee will meet for the purpose of a work session. (HB 995 - Chapter 741 of the 1992 Acts of Assembly)

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

HOUSE COMMITTEE ON MINING AND MINERAL RESOURCES

Subcommittee Studying Carryover HB 896 Relating to Water Supplies Contaminated by Mining Activities

† October 14, 1992 - 10 a.m. - Open Meeting
General Assembly Building, 6th Floor, 910 Capitol Street, Richmond, Virginia. ☐

A work session has been scheduled in regard to HB 896 relating to water supplies contaminated by mining activities.

Contact: Frank D. Munyan, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE NEEDS OF FOREIGN-BORN RESIDENTS IN THE COMMONWEALTH

† October 15, 1992 - 7 p.m. - Public Hearing
Rehearsal Hall of the Pavilion Convention Center, Virginia Beach, Virginia.

The subcommittee will meet to hear testimony from the public about the needs of foreign-born residents. (HJR 97)

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, General Assembly Bldg., 910 Capital St., Richmond, VA 23219, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE POSSIBILITY OF HAVING PUBLIC EMPLOYEES AND PRIVATE EMPLOYEES TEMPORARILY SWITCHING WORKPLACES

October 16, 1992 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

The subcommittee will meet for the purpose of a work session. (HJR 205)

Contact: Edie Conley, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING USES OF CAMP PENDLETON

October 28, 1992 - 8:30 a.m. - Public Hearing
Building 427, Camp Pendleton, Virginia Beach, Virginia.

Subcommittee will have hearing followed by tour of property. (HJR 83)

Contact: Jeffrey F. Sharp, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

HOUSE OF DELEGATES COURTS OF JUSTICE SUBCOMMITTEE STUDYING TRIALS AND APPEALS OF CAPITAL CASES, PROCEDURAL SAFEGUARDS

October 14, 1992 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Third meeting of this subcommittee.

Contact: Oscar Brinson, Senior Attorney or Frank Ferguson, Manager, Jurisprudence Section, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA CODE COMMISSION

October 20, 1992 - 3 p.m. - Open Meeting
October 21, 1992 - 9:30 a.m. - Open Meeting
October 22, 1992 - 9:30 a.m. - Open Meeting
Ramada Oceanside Conference Center, 57th Street and Oceanfront, Virginia Beach, Virginia.

The Commission will continue with its discussion of competitive negotiable bidding for the Code of Virginia and a proposed code of administrative regulations, complete its revision of Title 24.1, and conduct other general business.

Calendar of Events

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING WORKERS' COMPENSATION INSURANCE

† October 6, 1992 - 10 a.m. - Open Meeting
State Capitol Building, House Room C, Capitol Square, Richmond, Virginia. ☒

The subcommittee will meet for a work session.

Contact: Mark Pratt, Research Associate, Division of Legislative Services, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA COMMISSION ON YOUTH

October 21, 1992 - 1 p.m. - Public Hearing
Burruss Hall, Auditorium, Virginia Polytechnic Institute and State University, Field Drive, Blacksburg, Virginia. ☒
(Interpreter for deaf provided upon request)

This is a public hearing to solicit testimony relating to Juvenile Crime and Youth Prevention Programs. The Juvenile Crime testimony will be used as part of the study from HJR 36 on Serious Juvenile Offenders and the Youth Prevention Programs testimony will be used as background for the oversight of the Comprehensive Services Act for At-Risk Youth and Families (HB 935 and SB 171). A separate time slot has been set aside for each topic. 3 BI2* Juvenile Crime - 1 p.m. through 3 p.m.

Youth Prevention Programs - 4 p.m. through 6 p.m.

Contact: Nancy Ross, Executive Director, Commission on Youth, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

October 5

Air Pollution Control, Department of (State Board)
† Funeral Directors and Embalmers, Board of Health Professions, Department (Board of)
- Administration and Budget Committee
Local Government, Commission on
† Outdoors Foundation, Virginia
Waste Management Facility Operators, Board for

October 6

† Funeral Directors and Embalmers, Board of Health Professions, Department of (Board of)

- Regulatory Research Committee
Hopewell Industrial Safety Council
Innovative Technology (CIT) Review Committee, Center for
Mines, Minerals and Energy, Department of
- Division of Mineral Mining
Nursing, Board of
† Workers' Compensation Insurance, Joint Subcommittee Studying the

October 7

† Criminal Justice Services Board
- Committee on Training
Emergency Planning Committee, Local Environment, Council on the
† Funeral Directors and Embalmers, Board of
Goose Creek Scenic River Advisory Board
Nursing, Board of
† Sewage Handling and Disposal Appeals Review Board

October 8

† Dillon Rule and Local Government, Governor's Advisory Commission on the
Game and Inland Fisheries, Board of
Game and Inland Fisheries, Joint Subcommittee Studying the Effectiveness of Management Structure of the Department of
Medical Assistance Services, Department of
- Drug Utilization Review (DUR) Board
Nursing, Board of
† Pharmacy, Board of
† Telecommunications Board, Virginia Public Youth and Family Services, Board of
Youth and Family Services, Department of
- State Management Team of the Comprehensive Services Act for At-Risk Youth and Families

October 9

Dentistry, Board of
Geology, Board for
† Professional Counselors, Board of

October 10

† Professional Counselors, Board of

October 13

† Governor's Commission on Intercollegiate Athletics
Governor's Commission on Violent Crime
- Inmate Productivity Subcommittee
† Longwood College
- Academic Affairs/Student Affairs Committee
Nursing, Board of
- Education Advisory Committee
Real Estate Appraiser Board
† Virginia Resources Authority
† Virginia Student Assistance Authorities
- Board of Directors

October 14

Alcoholic Beverage Control Board

Calendar of Events

- † Conservation and Recreation, Department of
- Board on Conservation and Development of Public Beaches
Contractors, Board for
† Mining and Mineral Resources, House Committee on
- Subcommittee on HB 896
† Motor Vehicles, Department of
- Medical Advisory Board
Social Services, Board of
† Transportation, Department of (Commonwealth Transportation Board)
Trials and Appeals of Capital Cases, Procedural Safeguards, House of Delegates Courts of Justice Subcommittee Studying
- October 15**
Agriculture and Consumer Services, Department of (State Board)
- Pesticide Control Board
† Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
† Historic Resources, Department of (Board of)
† Nursing Home Administrators, Board of
† Private Security Services Advisory Board
Social Services, Board of
† Transportation, Department of (Commonwealth Transportation Board)
† Virginia Alcohol Safety Action Program, Commission on the
- October 16**
Agriculture and Consumer Services, Department of (State Board)
- Pesticide Control Board
Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Fire Services Board, Virginia
Game and Inland Fisheries, Board of
Possibility of Having Public Employees and Private Employees Temporarily Switching Workplaces, Joint Subcommittee Studying
† Residential Facilities for Children, Interdepartmental Regulation of
- Coordinating Committee
- October 17**
Game and Inland Fisheries, Board of
Medicine, Board of
- Credentials Committee
- October 19**
† Emergency Planning Committee, Local - Prince William County, Manassas City, and Manassas Park City
† Fuels Tax Evasion, Governor's Task Force on Intergovernmental Relations, Advisory Commission on Cosmetology, Board for
Nursing, Board of
Water Control Board, State
- October 20**
† Aviation Board, Virginia
Code Commission, Virginia
† Health Professions, Board of
† Housing Development Authority, Virginia
- October 21**
Code Commission, Virginia
† Conservation and Recreation, Board of
† Corrections, Board of
Governor's Commission on Violent Crime
- Inmate Productivity Subcommittee
Historic Resources, Department of
- Board of Historic Resources and State Review Board
† Milk Commission
† Taxation, Department of
Virginia Employment Commission
- State Advisory Board
Water Control Board, State
- October 22**
† Audiology and Speech-Language Pathology, Board of
† Dr. Martin Luther King Jr. Memorial Commission
Mental Health, Mental Retardation and Substance Abuse Services, Department of (State Board)
- Prevention, Promotion Advisory Council
Code Commission, Virginia
Virginia Public Procurement Act, Joint Subcommittee Studying
Waste Management, Department of (Virginia Waste Management Board)
Youth and Family Services, Department of
- State Management Team of the Comprehensive Services Act for At-Risk Youth and Families
- October 23**
Water Control Board, State
- October 24**
† Mary Washington College
- Board of Visitors
† Museum of Natural History, Virginia
- Board of Trustees
- October 26**
† Accountancy, Board for
Alcoholic Beverage Control Board
Commerce, Board of
† Lottery Board, State
† Pharmacy, Board of
Water Control Board, State
- October 27**
† Accountancy, Board for
Health Services Cost Review Council, Virginia
Marine Resources Commission
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
- October 28**

Calendar of Events

† Mental Health, Mental Retardation and Substance Abuse Services Board, State

October 29

Chesapeake Bay Local Assistance Board
† Education, Board of
Emergency Response Council, Virginia

November 3

† Hopewell Industrial Safety Council

November 4

Water Control Board, State

November 5

Emergency Planning Committee, Local - Chesterfield County
Medical Assistance Services, Department of
- Drug Utilization Review (DUR) Board
Mental Health, Mental Retardation and Substance Abuse Services, Department of (State Board)
- Council on Teen Pregnancy Prevention
Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board

November 6

Medicine, Board of
- Advisory Committee on Physician's Assistant
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee
Water Control Board, State

November 10

† Virginia Resources Authority

November 11

† Vocational Education, Virginia Council on

November 12

† Vocational Education, Virginia Council on

November 13

Library Board

November 20

Medicine, Board of
- Advisory Board of Physical Therapy
† Residential Facilities for Children, Interdepartmental Regulation of
- Coordinating Committee

November 23

Cosmetology, Board for
† Lottery Board, State

November 24

† Education, Board of
Health Services Cost Review Council, Virginia

December 1

† Hopewell Industrial Safety Council

December 3

Chesapeake Bay Local Assistance Board
Emergency Planning Committee, Local - Chesterfield County

December 15

Real Estate Appraiser Board

December 18

† Residential Facilities for Children, Interdepartmental Regulation of
- Coordinating Committee

PUBLIC HEARINGS

October 5

Local Government, Commission on

October 6

Motor Vehicles, Department of

October 7

Health, State Board of
Motor Vehicles, Department of

October 13

† Governor's Commission on Intercollegiate Athletics

October 14

† Defense Conversion and Economic Adjustment, Governor's Commission on

October 15

† Needs of Foreign-born Residents in the Commonwealth, Joint Subcommittee Studying the

October 21

† Milk Commission
Youth, Virginia Commission on

October 22

Health, State Board of

October 26

Uses of Camp Pendleton, Joint Subcommittee Studying

October 27

Health, State Board of

October 28

Alcoholic Beverage Control, Board of

November 5

† Waste Management, Department of (Virginia Waste Management Board)

November 12

† Waste Management, Department of (Virginia Waste Management Board)

November 18

Corrections, Department of (State Board)

November 24

Health Services Cost Review Council, Virginia

Calendar of Events
